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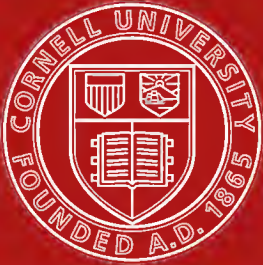
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DIPLOMATIC CORRESPONDENCE

DIPLOMATIC CORRESPONDENCE BETWEEN THE UNITED STATES AND GERMANY

AUGUST 1, 1914—APRIL 6, 1917

EDITED WITH INTRODUCTION AND ANALYTICAL INDEX

BY

JAMES BROWN SCOTT

Author of "A Survey of International Relations between the
United States and Germany"

Expressions of regret and offers of reparation in case of the destruction of neutral ships sunk by mistake . . . cannot justify or excuse a practice the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

Secretary of State Bryan in First *Lusitania* Note, May 13, 1915.

The Government of the United States is contending for something much greater than mere rights of property or privileges of commerce. It is contending for nothing less high and sacred than the rights of humanity.

Secretary of State Lansing in Second *Lusitania* Note, June 9, 1915.

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PUBLISHERS' PREFACE

The publishers announce, separate and distinct from, but to be used in connection with the present volume, President Wilson's Foreign Policy—Messages, Addresses, Papers, and A Survey of International Relations Between the United States and Germany, from August 1, 1914, to April 6, 1917, the date of the declaration of a state of war by the Congress of the United States against the Imperial German Government. These volumes are of the same format as The Diplomatic Correspondence Between the United States and Germany, during the same period.

The differences of opinion, crystallizing into opposition, and resulting eventually in war between the United States and Germany, are stated clearly, unmistakably, and officially in the Diplomatic Correspondence between the two Governments since the outbreak of the European War in 1914, and up to the declaration of war by the United States because of the controversies between the two countries. The Diplomatic Correspondence makes the case of the United States, just as the Diplomatic Correspondence is the defense of Germany. Upon this Correspondence each country rests its case, and upon this Correspondence each is to be judged. It is thought best to present it in a volume by itself, disconnected from narrative or from correspondence with other belligerent nations, which would indeed have been interesting but not material in the present case.

President Wilson's views upon foreign policy were important during the neutrality of the United States; it is even more important to understand them now, inasmuch as they are the views of the United States at war and indicate in no uncertain way the attitude which the United States under President Wilson's guidance may be expected to assume in the negotiations which must one day

bring about peace to a long-suffering and war-ridden world. This volume is of interest to Mr. Wilson's countrymen; it is of interest to the belligerents; it is of interest to the neutrals, whose cause Mr. Wilson has championed.

The Survey of International Relations Between the United States and Germany aims to give an authentic account of the conduct of the United States during the period of its neutrality, and the attitude of the Imperial Government towards the United States. An extended introduction is prefixed, setting forth the views of monarchs, statesmen, and publicists of that country, showing the German conception of the State, International Policy and International Law. The narrative giving the views of both Governments is based upon the documents contained in the volume of Diplomatic Correspondence Between the United States and Germany.

The publishers have pleasure in announcing that Mr. Scott has directed that the royalties due him for these volumes be presented to the Department of State War Relief Work Committee, of which Mrs. Robert Lansing is President.

OXFORD UNIVERSITY PRESS.
American Branch

March 1, 1918.

INTRODUCTION

INTRODUCTION.

THE WAR BETWEEN THE UNITED STATES AND THE IMPERIAL GERMAN GOVERNMENT.¹

On the second day of April, 1917, President Wilson appeared before the Congress of the United States and, after setting forth the lawless actions of the Imperial German Government and the impossibility of protecting the lives and property of his fellow countrymen engaged in pursuits which have always "even in the darkest periods of modern history, been deemed innocent and legitimate" advised the Congress of the United States to declare the existence of a state of war between the Imperial German Government and the United States. On the sixth day of April, 1917, the Congress, after grave deliberation and with a full sense of the responsibility which it would thus assume, declared a state of war to exist between the Imperial German Government and the United States.

What were the reasons which caused the President of the United States to advise the Congress to declare the existence of a state of war between the Imperial German Government and the United States; what were the reasons which caused the Congress to act upon the advice of the President to declare the existence of a state of war between the two countries; and what are the consequences which the President, the Congress, and the people of the United States consider as likely to follow from this state of war and its effective prosecution? We do not need to speculate as to the reasons, for the President himself has stated them, and if he had not they would be sufficiently in evidence, as the actions of Germany since the first day of August, 1914, in so far as the United States is concerned, speak louder than words; and we do not need to indulge in prophecy in order to forecast the consequences of this declaration on behalf of the United States, for the President himself has stated, in clear and unmistakable terms, that the autocracy which made these acts possible should end with the war.

The first part of the President's address deals with the specific

¹ Reprinted from *The American Journal of International Law*, July, 1917.

acts of the Imperial German Government as causes of the war. The second part deals with the motives and purposes of the United States in entering the war, for while the acts of the Imperial German Government would justify resistance on behalf of the United States, the President wished it to be clearly understood, and therefore he put it plainly, that the motive and purpose in entering the war which had been thrust upon the United States was not merely to secure redress for the loss of property, not even redress for the destruction of human life, but to secure the repudiation of the Prussian conception of state and government, which could force a people to commit such acts, and to secure some form of international organization calculated to guarantee peace among nations through the administration of justice.

As far as the United States is concerned, the cause of its war with the Imperial German Government is the submarine, for the disputes of a serious nature and of a kind calculated to produce war between the two governments related to the conduct of the submarine, which, because Great Britain controlled the seas, was the only form of maritime warfare left to Germany; and Germany was apparently as unwilling to renounce maritime warfare as it was unwilling to allow its surface fleet to put to sea and to give battle to the British Navy. The United States did not object to the employment of the submarine, recognizing it as a vessel of war, possessed of all the rights of a vessel of war and subject to all the duties of a vessel of war. But the United States insisted from the beginning that the submarine should conform its actions to the rules of law to which vessels of war were subjected, and that, if it could not or would not conform its actions to such rules, it should not be used; for the law could not be changed to suit the submarine, which should itself be changed to meet the law if it could not, as then constructed, comply with the law as it then stood.

The Imperial German Government, on the contrary, insisted that, because of its frailty, the submarine could not comply with the laws and customs of war controlling the acts of surface vessels, that it could not comply with the formalities of visit and search, because, to do so, it would have to comport itself as a surface vessel, and as a surface vessel it would endanger its existence if it approached within gunshot of ordinary surface vessels. The Imperial German Government claimed for the submarine the right to operate under the surface to protect itself from attack, and, thus protected, to attack any vessel approaching it because, under the surface, it could not distinguish the vessel of the enemy from the vessel of a neutral Power; it claimed

the right to attack the vessel within range without warning because, if it gave warning, it exposed itself to danger; and finally, it claimed the right to torpedo and thus destroy the vessel without first putting its passengers and crew in a place of safety because the submarine was too small to take them on board.

If matters had rested here the question at issue between the two governments would have been academic. But matters did not rest here because the Imperial German Government put its conception of submarine warfare into practice, with the result, as the President informed the Congress in his address of the 2d of April, 1917, that "Vessels of every kind, whatever their flag, their character, their cargo, their destination, their errand, have been ruthlessly sent to the bottom without warning and without thought of help or mercy for those on board, the vessels of friendly neutrals along with those of belligerents. Even hospital ships and ships carrying relief to the sorely bereaved and stricken people of Belgium, though the latter were provided with safe conduct through the proscribed areas by the German Government itself and were distinguished by unmistakable marks of identity, have been sunk with the same reckless lack of compassion or of principle."

In the report of the Committee of Foreign Affairs of the House of Representatives accompanying the text of the declaration of a state of war with the Imperial German Government, numerous instances are given justifying the President's indictment, and while these instances are but few of the many, they are given as a sample of the indiscriminate submarine warfare of the Imperial German Government.

After a brief reference to the diplomatic correspondence between the two governments, in which Germany stated that instructions had been given "to abstain from all violence against neutral vessels recognizable as such" and that "it is very far indeed from the intention of the German Government . . . ever to destroy neutral lives and neutral property," the official report to which reference has been made continues:

Nevertheless the German Government proceeded to carry out its plans of submarine warfare and torpedoed the British passenger steamer *Falaba* on March 27, 1915, when one American life was lost, attacked the American steamer *Cushing* April 28 by airship, and made submarine attacks upon the American tank steamer *Gulflight* May 1, the British passenger liner *Lusitania* May 7 when 114 American lives were lost, and the American steamer *Nebraskan* on May 25, in all of which over 125 citizens of the United States lost their lives, not to mention hundreds of noncombatants who were lost and hundreds of Americans and noncombatants whose lives were put in jeopardy.

The British mule boat *Armenian* was torpedoed on June 28, as a result of which 20 Americans are reported missing.

After a further reference to the diplomatic correspondence the official report thus proceeds:

Subsequently, the following vessels carrying American citizens were attacked by submarines.

British liner *Orduna* July 9.

Russian steamer *Leo* July 9.

American steamer *Leelanaw* July 25.

British passenger liner *Arabic* August 19.

British mule ship *Nicosian* August 19.

British steamer *Hesperian* September 4.

In these attacks 23 Americans lost their lives, not to mention the large number whose lives were placed in jeopardy.

After another reference to diplomatic correspondence, citing German promises, the official report continues:

Following this accumulative series of assurances, however, there seems to have been no abatement in the rigor of submarine warfare, for attacks were made in the Mediterranean upon the American steamer *Communiaw* on December 3, the American steamer *Petrolite* December 5, the Japanese liner *Yasaka Maru* December 21, and the passenger liner *Persia* December 30. In the sinking of the *Persia* out of a total of some 500 passengers and crew only 165 were saved. Among those lost was an American consul traveling to his post.

After again referring to correspondence between the two countries, continuing the assurance of the German Government, in the language of the report, "that neutral and enemy merchant vessels, passenger as well as freight ships, should not be destroyed except upon the passengers and crew being accorded safety," the official report thus chronicles the loss of life and property during the year 1916:

On March 1, 1916, the unarmed French passenger steamer *Patria*, carrying a number of American citizens was attacked without warning. On March 9 the Norwegian bark *Silius*, riding at anchor in Havre Rhodes, was torpedoed by an unseen submarine and one of the seven Americans on board was injured. On March 16 the Dutch passenger steamer *Tubantia* was sunk in the North Sea by a torpedo. On March 16 the British steamer *Berwindvale* was torpedoed without warning off Bantry Island with four Americans on board. On March 24 the British unarmed steamer *Englishman* was, after a chase, torpedoed and sunk by the submarine U. 19, as a result of which one American on board perished. On March 24 the unarmed French cross-channel steamer *Sussex* was torpedoed without warning, several of the 24 American passengers being injured. On March 27 the unarmed British liner *Manchester Engineer* was sunk by an explosion without prior warning, with Americans on board, and on March 28 the British steamer *Eagle Point*, carrying a Hotchkiss gun, which she did not use,

was chased, overtaken, and sunk by a torpedo after the persons on board had taken to the boats.

And after a final reference to the correspondence between the two governments, resulting in the assurance of May 4, 1916, that new orders had been issued to the German naval forces "in accordance with the general principles of visit and search and the destruction of merchant vessels recognized by international law," and quoting the withdrawal of this assurance contained in the German note of January 31, 1917, the report continues and concludes as follows this phase of the question:

On February 3 [1917] one American ship was sunk, and since that date six American ships flying the American flag have been torpedoed, with a loss of about 13 American citizens. In addition, 50 or more foreign vessels of both belligerent and neutral nationality with Americans on board have been torpedoed, in most cases without warning, with a consequent loss of several American citizens.

The President's statement thus appears to be borne out by the facts, for enemy merchant vessels carrying passengers or freight, and neutral vessels, of whatever nationality, have indiscriminately been sunk by the German submarine lying in wait for its prey.

But there is a further charge made by the President of even a more serious character, for in the address of the 2d of April he states that "hospital ships and ships carrying relief to the sorely bereaved and stricken people of Belgium" had been destroyed by German submarines, although these vessels were supposed to be protected by the promise of the Imperial German Government, evidenced by safe-conducts. On this point the official report previously quoted says:

When the Commission for Relief in Belgium began its work in October, 1914, it received from the German authorities, through the various Governments concerned, definite written assurances that ships engaged in carrying cargoes for the relief of the civil population of Belgium and northern France should be immune from attack. In order that there may be no room for attacks upon these ships through misunderstanding each ship is given a safe-conduct by the German diplomatic representative in the country from which it sails, and, in addition, bears conspicuously upon its sides markings which have been agreed upon with the German authorities; furthermore, similar markings are painted upon the decks of the ships in order that they may be readily recognizable by aeroplanes.

Upon the rupture of relations with Germany the commission was definitely assured by the German Government that its ships would be immune from attack by following certain prescribed courses and conforming to the arrangements previously made.

Despite these solemn assurances there have been several unwarranted attacks upon ships under charter to the commission.

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On March 7 or 8 the Norwegian ship *Storstad*, carrying 10,000 tons of corn from Buenos Aires to Rotterdam for the commission was sunk in broad daylight by a German submarine despite the conspicuous markings of the commission which the submarine could not help observing. The *Storstad* was repeatedly shelled without warning and finally torpedoed.

On March 19 the steamships *Tunisie* and *Haelen*, under charter to the commission proceeded to the United States under safe-conducts and guarantees from the German minister at The Hague and bearing conspicuous markings of the commission, were attacked without warning by a German submarine outside the danger zone (56° 15' north, 5° 32' east). The ships were not sunk, but on the *Haelen* seven men were killed, including the first and third officers; a port boat was sunk; a hole was made in the port bunker above the water line; and the ships sustained sundry damages to decks and engines.

In a later portion of the President's address he calls attention to the difficulty of maintaining peace with the Imperial German Government and enumerates a series of transactions within American jurisdiction comparable to the conduct of the submarine warfare upon the high seas. They are apparently not enumerated by the President as in themselves the cause of war but as a matter of aggravation. Thus he says:

One of the things that has served to convince us that the Prussian autocracy was not and could never be our friend is that from the very outset of the present war it has filled our unsuspecting communities and even our offices of government with spies and set criminal intrigues everywhere afoot against our national unity of counsel, our peace within and without, our industries and our commerce. Indeed it is now evident that its spies were here even before the war began; and it is unhappily not a matter of conjecture but a fact proved in our courts of justice that the intrigues which have more than once come perilously near to disturbing the peace and dislocating the industries of the country have been carried on at the instigation, with the support, and even under the personal direction of official agents of the Imperial Government accredited to the Government of the United States. Even in checking these things and trying to extirpate them we have sought to put the most generous interpretation possible upon them because we knew that their source lay, not in any hostile feeling or purpose of the German people toward us (who were, no doubt, as ignorant of them as we ourselves were), but only in the selfish design of a Government that did what it pleased and told its people nothing. But they have played their part in serving to convince us at last that that Government entertains no real friendship for us and means to act against our peace and security at its convenience. That it means to stir up enemies against us at our very doors the intercepted note to the German Minister at Mexico City is eloquent evidence.

In the official report of the Committee on Foreign Affairs of the House of Representatives, containing the instances of German submarine warfare, there is an elaborate but far from complete enumera-

tion of the acts of German officials and of German sympathizers in the domestic affairs of the United States. The few instances actually stated, which are to be taken as a sample of the many which are not chronicled, are twenty-one in number and are thus stated in the report in brief and summary form:

1. By direct instructions received from the foreign office in Berlin the German Embassy in this country furnished funds and issued orders to the Indian independence committee of the Indian Nationalist Party in the United States. These instructions were usually conveyed to the committee by the military information bureau in New York (von Igel) or by the German consulates in New York and San Francisco.

Dr. Chakrabarty, recently arrested in New York City, received, all in all, according to his own admission, some \$60,000 from von Igel. He claims that the greater portion of this money was used for defraying the expenses of the Indian revolutionary propaganda in this country, and, as he says, for educational purposes. While this is in itself true, it is not all that was done by the revolutionists. They have sent representatives to the Far East to stir up trouble in India and they have attempted to ship arms and ammunition to India. These expeditions have failed. The German Embassy also employed Ernest T. Euphrat, to carry instructions and information between Berlin and Washington under an American passport.

2. Officers of interned German warships have violated their word of honor and escaped. In one instance the German consul at Richmond furnished the money to purchase a boat to enable six warrant officers of the steamer *Kronprinz Wilhelm* to escape after breaking their parole.

3. Under the supervision of Capt. von Papen and Wolf von Igel, Hans von Wedell and, subsequently, Carl Ruroede maintained a regular office for the procurement of fraudulent passports for German reservists. These operations were directed and financed in part by Capt. von Papen and Wolf von Igel. Indictments were returned, Carl Ruroede sentenced to the penitentiary, and a number of German officers fined. Von Wedell escaped and has apparently been drowned at sea. Von Wedell's operations were also known to high officials in Germany. When Von Wedell became suspicious that forgeries committed by him on a passport application had become known, he conferred with Capt. von Papen and obtained money from him wherewith to make his escape.

4. James J. F. Archibald, under cover of an American passport and in the pay of the German Government through Ambassador Bernstorff, carried dispatches for Ambassador Dumba and otherwise engaged in unneutral activities.

5. Albert Sanders, Charles Wunnonberg, and others, German agents in this country, were engaged, among other activities, in sending spies to England equipped with American passports, for the purpose of securing military information. Several such men have been sent. Sanders and Wunnonberg have plead guilty to indictments brought against them in New York City as has George Voux Bacon, one of the men sent abroad by them.

6. American passports have been counterfeited and counterfeits found on German agents. Baron von Cupenberg, a German agent, when arrested abroad, bore a counterfeit of an American passport issued to Gustav C. Roeder; Irving

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Guy Ries received an American passport, went to Germany, where the police retained his passports for 24 hours. Later a German spy named Carl Paul Julius Hensel was arrested in London with a counterfeit of the Ries passport in his possession.

7. Prominent officials of the Hamburg-American Line, who under the direction of Capt. Boy-Ed, endeavored to provide German warships at sea with coal and other supplies in violation of the statutes of the United States, have been tried and convicted and sentenced to the penitentiary. Some 12 or more vessels were involved in this plan.

8. Under the direction of Capt. Boy-Ed and the German consulate at San Francisco, and in violation of our laws, the steamships *Sacramento* and *Mazatlan* carried supplies from San Francisco to German war vessels. The *Olsen* and *Mahoney*, which was engaged in a similar enterprise, was detained. The money for these ventures was furnished by Capt. Boy-Ed. Indictments have been returned in connection with these matters against a large number of persons.

9. Werner Horn, a lieutenant in the German Reserve, was furnished funds by Capt. Franz von Papen and sent, with dynamite, under order to blow up the International Bridge at Vanceboro, Me. He was partially successful. He is now under indictment for the unlawful transportation of dynamite on passenger trains and is in jail awaiting trial following the dismissal of his appeal by the Supreme Court.

10. Capt. von Papen furnished funds to Albert Kaltschmidt, of Detroit, who is involved in a plot to blow up a factory at Walkerville, Canada, and the armory at Windsor, Canada.

11. Robert Fay, Walter Scholtz, and Paul Daeche have been convicted and sentenced to the penitentiary and three others are under indictment for conspiracy to prepare bombs and attach them to allied ships leaving New York Harbor. Fay, who was the principal in this scheme, was a German soldier. He testified that he received finances from a German secret agent in Brussels, and told von Papen of his plans, who advised him that his device was not practicable, but that he should go ahead with it, and if he could make it work he would consider it.

12. Under the direction of Capt. von Papen and Wolf von Igel, Dr. Walter T. Scheele, Capt. von Kleist, Capt. Wolpert, of the Atlas Steamship Co., and Capt. Rode, of the Hamburg-American Line, manufactured incendiary bombs and placed them on board allied vessels. The shells in which the chemicals were placed were made on board the steamship *Friedrich der Grosse*. Scheele was furnished \$1,000 by von Igel wherewith to become a fugitive from justice.

13. Capt. Franz Rintelen, a reserve officer in the German Navy, came to this country secretly for the purpose of preventing the exportation of munitions of war to the allies and of getting to Germany needed supplies. He organized and financed Labor's National Peace Council in an effort to bring about an embargo on the shipment of munitions of war, tried to bring about strikes, etc.

14. Consul General Bopp, at San Francisco, Vice Consul General von Schaick, Baron George Wilhelm von Brincken (an employee of the consulate), Charles C. Crowley, and Mrs. Margaret W. Cornell (secret agents of the German consulate at San Francisco) have been convicted of conspiracy to send agents into Canada to blow up railroad tunnels and bridges, and to wreck vessels sailing from Pacific coast ports with war materials for Russia and Japan.

15. Paul Koenig, head of the secret-service work of the Hamburg-American

Line, by direction of his superior officers, largely augmented his organization and under the direction of von Papen, Boy-Ed, and Albert carried on secret work for the German Government. He secured and sent spies to Canada to gather information concerning the Welland Canal, the movements of Canadian troops to England, bribed an employee of a bank for information concerning shipments to the Allies, sent spies to Europe on American passports to secure military information, and was involved with Capt. von Papen in plans to place bombs on ships of the Allies leaving New York Harbor, etc. Von Papen, Boy-Ed, and Albert had frequent conferences with Koenig in his office, at theirs, and at outside places. Koenig and certain of his associates are under indictment.

16. Capt. von Papen, Capt. Hans Tauscher, Wolf von Igel, and a number of German reservists organized an expedition to go into Canada, destroy the Welland Canal, and endeavor to terrorize Canadians in order to delay the sending of troops from Canada to Europe. Indictments have been returned against these persons. Wolf von Igel furnished Fritzen, one of the conspirators in this case, money on which to flee from New York City. Fritzen is now in jail in New York City.

17. With money furnished by official German representatives in this country, a cargo of arms and ammunition was purchased and shipped on board the schooner *Annie Larsen*. Through the activities of German official representatives in this country and other Germans a number of Indians were procured to form an expedition to go on the steamship *Maverick*, meet the *Annie Larsen*, take over her cargo, and endeavor to bring about a revolution in India. This plan involved the sending of a German officer to drill Indian recruits and the entire plan was managed and directed by Capt. von Papen, Capt. Hans Tauscher, and other official German representatives in this country.

18. Gustav Stahl, a German reservist, made an affidavit which he admitted was false, regarding the armament of the *Lusitania*, which affidavit was forwarded to the State Department by Ambassador Bernstorff. He pled guilty to an indictment charging perjury, and was sentenced to the penitentiary. Koenig, herein mentioned, was active in securing this affidavit.

19. The German Embassy organized, directed, and financed the Hans Libeau Employment Agency, through which extended efforts were made to induce employees of manufacturers engaged in supplying various kinds of material to the Allies to give up their positions in an effort to interfere with the output of such manufacturers. Von Papen indorsed this organization as a military measure, and it was hoped through its propaganda to cripple munition factories.

20. The German Government has assisted financially a number of newspapers in this country in return for pro-German propaganda.

21. Many facts have been secured indicating that Germans have aided and encouraged financially and otherwise the activities of one or the other factions in Mexico, the purpose being to keep the United States occupied along its borders and to prevent the exportation of munitions of war to the Allies; see, in this connection, the activities of Rintelen, Stallforth, Kopf, the German consul at Chihuahua, Krum-Hellen, Felix Somerfeld (Villa's representative at New York), Carl Heynen, Gustav Steinberg, and many others.

It will be observed that these interferences with the domestic economy of the United States were at a time when this country was

neutral, when the Imperial German Secretary of State for Foreign Affairs abounded in expressions of friendship and consideration, and when the Imperial German Ambassador enjoyed the hospitality of a neutral country, whose rights upon the high seas had been systematically violated by the Imperial German Ambassador, members of the official staff, and partisans of Germany in his employ. It is hard to believe that these things are so, yet the Zimmermann letter would lead us to suspect them, if stated on credible authority, and the authority upon which we have them is that of the Government of the United States, in many instances the judgments of courts of the United States in which the transactions had been established by proof and the perpetrators convicted of their commission and sentenced to prison in judicial proceedings in accordance with the laws of the United States. The text of the Zimmermann letters, as contained in the report of the Committee on Foreign Affairs, is as follows:

Berlin, January 19, 1917.

On the first of February we intend to begin submarine warfare unrestricted. In spite of this it is our intention to endeavor to keep neutral the United States of America.

If this attempt is not successful we propose an alliance on the following basis with Mexico: That we shall make war together and together make peace. We shall give general financial support, and it is understood that Mexico is to reconquer the lost territory in New Mexico, Texas, and Arizona. The details are left to you for settlement.

You are instructed to inform the President of Mexico of the above in the greatest confidence as soon as it is certain there will be an outbreak of war with the United States, and suggest that the President of Mexico on his own initiative should communicate with Japan suggesting adherence at once to this plan; at the same time offer to mediate between Germany and Japan.

Please call to the attention of the President of Mexico that the employment of ruthless submarine warfare now promises to compel England to make peace in a few months.

(Signed) ZIMMERMANN.

It was therefore under the eyes of Congress, as it was in the mind of the President and in the heart of the American people. Without it there were causes of war, with it there was slight chance that war could be avoided. It is doubtful whether it would have produced war if there had not been other and impelling reasons for the resort to arms. It is doubtful if it can properly be included among the causes of the war, certainly it was not a distinct cause; it was rather the culmination of a series of unfriendly acts and it showed the spirit and purpose with which those acts had been committed. It was rather a

matter of aggravation, throwing fuel on the flames, than creating of itself a conflagration.

The President properly stated in his address of April 2d to the Congress that he was assuming a grave responsibility in recommending a declaration of the existence of a state of war against the Imperial German Government, for the day has long since passed, at least in democratic countries, where the head of a state, whether he be monarch or president, can go to war as the king went a-hunting. War may be an imperial, it is no longer a royal, sport, and it never has been and it never will be, it is to be hoped, a presidential one. War is ordinarily declared in a moment of excitement and reason is likely to be swayed by enthusiasm; but we cannot to-day in democracies justify a declaration of war unless the cause be just, and, however we may deceive ourselves, we cannot deceive posterity, which passes alike upon the acts of autocrat, constitutional monarch, president, and people. We must decide according to our knowledge of present conditions and according to these conditions our actions are to be judged in the first instance, but the future must finally decide the question.

The President has stated the case of the United States against the Imperial Government clearly and in detail. He enumerated the special reasons which, in his opinion, would be a proper cause of armed action. He has searched his own heart and the conscience of the American people, that the motives and objects of the war may not only justify but require in the given circumstances and conditions the declaration of a state of war. It is indeed a grave responsibility which the President assumed in recommending the war, which the Congress assumed in declaring its existence, and which the people of the United States assumed in carrying it on.

We believe that the reasons given are causes, not pretexts, that the motives and purposes are sincere and sufficient; but on all these matters posterity has the final word—for whether we will or no, “Die Weltgeschichte ist das Weltgericht.”

JAMES BROWN SCOTT.

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OFFICIAL DOCUMENTS

OFFICIAL DOCUMENTS.

DIPLOMATIC CORRESPONDENCE BETWEEN THE UNITED
STATES AND THE IMPERIAL GERMAN GOVERNMENT
AUGUST 1, 1914—APRIL 6, 1917.

PART I.

DECLARATION OF LONDON.

*The Secretary of State to Ambassador Gerard.*¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, August 6, 1914, 1 p. m.

Mr. Bryan instructs Mr. Gerard to inquire whether the German Government is willing to agree that the laws of naval warfare as laid down by the Declaration of London of 1909 shall be applicable to naval warfare during the present conflict in Europe provided that the Governments with whom Germany is or may be at war also agree to such application. Mr. Bryan further instructs Mr. Gerard to state that the Government of the United States believes that an acceptance of these laws by the belligerents would prevent grave misunderstandings which may arise as to the relations between neutral powers and the belligerents. Mr. Bryan adds that it is earnestly hoped that this inquiry may receive favorable consideration.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,

Berlin, August 22, 1914, 12 midnight.

Mr. Gerard refers to Department's August 19, 4 p. m., and says his August 20, 1 a. m., by way of Copenhagen, states that the German Government will apply the Declaration of London, provided its provisions are not disregarded by other belligerents.

¹ (Same *mutatis mutandis* to: The American Embassies at St. Petersburg, Paris, London, and Vienna, and the American Legation at Brussels.)

*The Acting Secretary of State to Ambassador Gerard.*¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, October 24, 1914, 5 p. m.

Referring to Department's August 6, 1 p. m., and Embassy's August 22, relative to the Declaration of London, Mr. Lansing instructs Mr. Gerard to inform the German Government that the suggestion of the department to belligerents as to the adoption of declaration for sake of uniformity as to a temporary code of naval warfare during the present conflict has been withdrawn because some of the belligerents are unwilling to accept the declaration without modifications and that this Government will therefore insist that the rights and duties of the Government and citizens of the United States in the present war be defined by existing rules of international law and the treaties of the United States without regard to the provisions of the declaration and that the Government of the United States reserves to itself the right to enter a protest or demand in every case in which the rights and duties so defined are violated or their free exercise interfered with by the authorities of the belligerent governments.

PART II.

CONTRABAND OF WAR.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,

Berlin, September 4, 1914.

I repeat my August tenth a. m.

The Foreign Office sends me a list of the articles which the German Government intends to treat as contraband of war in pursuance of the German prize ordinance printed in *Reichsgesetzblatt*, 1914, No. 4. I find the list agrees exactly with article 22,² Nos. 1 to 11, of

¹ (Same to the embassies at St. Petersburg, Vienna, and Paris, and the legation at Brussels.)

² ARTICLE 22 OF THE DECLARATION OF LONDON.

The following articles may, without notice, be treated as contraband of war under the name of absolute contraband:

(1) Arms of all kinds, including arms for sporting purposes and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

the Declaration of London, in respect of absolute contraband and to article 24, Nos. 1 to 14, in respect of conditional contraband. The German Government state that the ordinance embodies the substance of the Declaration and that they will apply its provisions if they are not disregarded by other belligerents. They request to be informed what attitude the other powers have assumed.

Copies of the ordinance have been mailed to you and to the London Embassy.

GERARD.

[Translation.]

The German Ambassador to the Secretary of State.

IMPERIAL GERMAN EMBASSY,
Washington, October 22, 1914.

MR. SECRETARY OF STATE: I have the honor to inform Your Excellency that the Imperial Government has declared copper and lead

- (3) Powder and explosives specially prepared for use in war.
- (4) Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
- (5) Clothing and equipment of a distinctively military character.
- (6) All kinds of harness of a distinctively military character.
- (7) Saddle, draft, and pack animals suitable for use in war.
- (8) Articles of camp equipment and their distinctive component parts.
- (9) Armor plates.
- (10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.
- (11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

ARTICLE 24 OF THE DECLARATION OF LONDON.

The following articles, susceptible of use in war as well as for purposes of peace, may, without notice, be treated as contraband of war under the name of conditional contraband:

- (1) Foodstuffs.
- (2) Forage and grain, suitable for feeding animals.
- (3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war, and their component parts.
- (6) Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
- (7) Railway material, both fixed and rolling stock, and material for telegraphs, wireless telegraphs, and telephones.
- (8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.
- (9) Fuel; lubricants.
- (10) Powder and explosives not specially prepared for use in war.
- (11) Barbed wire and implements for fixing and cutting the same.
- (12) Horseshoes and shoeing materials.
- (13) Harness and saddlery.
- (14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

to be conditional contraband. In consequence thereof I beg Your Excellency kindly to cause the foregoing to be published in accordance with the "Declaration of International Naval Conference" of February 26, 1909.

Accept, etc.,

For the Imperial Ambassador:

HANIEL.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, November 19, 1914.

Nineteenth. Proclamation of November 17th defines all rough or unworked lumber as conditional contraband under number nine or article twenty-three of German prize ordinance because susceptible of use as fuel. Exceptions are *lignum vitæ*, palisander, ebony, and similar woods and all woods greatly enhanced in value through working by hand or machine.

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, November 23, 1914.

German Government has added following to list of conditional contraband:

No. 17. Woods of all kinds, rough or worked, that is hewn, sawed, planed, grooved, etc.; cylinder tar.

No. 18. Sulphur, crude or refined, and sulphuric acid.

GERARD.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, November 23, 1914.

SIR: I have the honor to transmit to you herewith translations of two notes received from the imperial foreign office conveying notification of additions to the original lists of articles regarded as contraband by the German Government, which, as reported in my telegram of August 10, 1 p. m., corresponded in all respects with articles 22 and 24 of the Declaration of London.

I have, etc.

JAMES W. GERARD.

[Inclosure 1—Translation.]

NOTE VERBALE.

In supplement to its note verbale of August 6, 1914, IIIa.9222, the foreign office has the honor to inform the embassy of the United States of America that during the present hostilities the following materials will be considered as conditional contraband by Germany in addition to the articles and materials designated under No. 11, 1-14:

15. Copper (unworked) and
16. Lead in blocks, plates or tubes.

The foreign office begs that the embassy of the United States of America will kindly inform its Government of the above as soon as possible.

Berlin, October 22, 1914.

[Inclosure 2—Translation.]

NOTE VERBALE.

In supplement to its notes verbales of August 6, 1914, and October 22, 1914, IIIa.9222 and 17064, the foreign office has the honor to inform the embassy of the United States of America that during the present hostilities the following will be considered by Germany as conditional contraband in addition to the articles and materials designated under 11, 1-16:

17. Woods of all kinds, rough or treated (in particular hewn, sawed, planed, grooved), charcoal cylinder tar.
18. Sulphur, crude or refined, sulphuric acid.

The foreign office begs that the embassy will kindly notify its Government of the above as soon as possible.

Berlin, November 23, 1914.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, December 3, 1914.

SIR: With reference to my dispatch No. 280, dated November 23, 1914, I have the honor to transmit to you herewith a copy, in translation, of a note received from the imperial German foreign office, dated November 30, 1914, in reply to an inquiry addressed by me to

the foreign office to ascertain whether Germany regards quebracho wood in logs as contraband of war. It appears from the note of the foreign office that quebracho wood is held by the German Government to fall under the order of the imperial chancellor of November 23, 1914, and to be considered as conditional contraband.

I have, etc.

JAMES W. GERARD.

[Inclosure—Translation.]

NOTE VERBALE.

The foreign office has the honor to inform the embassy of the United States of America, in reply to the note verbale of the 20th instant (F. O. No. 1165), that quebracho wood is not to be considered as fuel within the meaning of article 23, No. 9, of the German prize ordinance, nor to be deemed contraband for this reason.

However, by an order of the imperial chancellor, dated November 23, 1914, *Reichsgesetzblatt*, p. 481, all kinds of woods have been expressly declared to be conditional contraband, and quebracho wood in logs is included in such declaration.

Berlin, November 30, 1914.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, December 8, 1914.

SIR: With reference to the department's cable, No. 749, of December 3, 1914, and to my dispatch, No. 280, of November 23, 1914, I have the honor to transmit to you herewith three copies of the *Reichsgesetzblatt*, 1914, No. 101, containing the proclamation of the German Government relative to the treatment of wood, cylinder tar, sulphur, and sulphuric acid as conditional contraband.

I have, etc.

JAMES W. GERARD.

[Inclosure—Translation.]

Reichsgesetzblatt. Year 1914. No. 101.

(No. 4549.). *Addition to the prize ordinance of September 30, 1909 (Reichsgesetzblatt, 1914, p. 275), of November 23, 1914.*

I hereby prescribe in addition to the ordinance of October 18, 1914 (*Reichsgesetzblatt*, p. 441), that in the prize list of September

30, 1909, under the numeral 23, the following two further numbers be subjoined:

17. Woods of every kind, in the rough or manufactured (especially also cut, sawn, planed, grooved), wood-tar.

18. Sulphur, raw or refined, sulphuric acid.

Berlin, November 23, 1914.

Vice Imperial Chancellor,

DELBRÜCK.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, December 15, 1914.

SIR: With reference to my telegram of even date, I have the honor to transmit to you herewith five copies of a proclamation of the German Government, dated December 14, 1914, declaring aluminum and nickel to be conditional contraband. A translation of the proclamation is likewise appended.

I have, etc.

JAMES W. GERARD.

[Inclosure 1—Translation.]

Reichsgesetzblatt, 1914. No. 112.

Supplement to the prize ordinance of September 30, 1909. (Reichsgesetzblatt, 1914, p. 275.)

In supplement to the order of November 23, 1914 (*Reichsgesetzblatt*, p. 481), I hereby order that the following two numbers shall be added to article 23 of the prize ordinance of September 30, 1909:

19. Aluminum.

20. Nickel.

Berlin, December 14, 1914.

Vice the Imperial Chancellor,

(Signed)

DELBRÜCK.

[Inclosure 2—Translation.]

NOTE VERBALE.

The foreign office has the honor to inform the embassy of the United States of America, in supplement to the notes verbales of August 6, October 22, and November 23, 1914, Nos. IIIa.9222, 17064,

and 19785 that during the present hostilities the following articles will be considered as conditional contraband by Germany, in addition to those recited in the notes verbales mentioned, Nos. 1-18:

19. Aluminum.

20. Nickel.

The Foreign Office begs that the Embassy would be good enough to inform its Government of the above as soon as possible.

Berlin, December 14, 1914.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, April 26, 1915.

SIR: With reference to my telegram No. 2097, dated April 21, 1915, I have the honor to transmit to you herewith five copies of *Reichsgesetzblatt*, 1915, No. 49, with translation, containing the modifications and amendments of the German prize ordinance recently promulgated.

I have, etc.,

JAMES W. GERARD.

[Translation.]

Reichsgesetzblatt, 1915. No. 49.

*Ordinance relative to amendments of the prize ordinance of
September 30, 1909.*

In retaliation of the regulations adopted by England and her allies, deviating from the London declaration of maritime law of February 26, 1909, I approve of the following amendments of the prize ordinance of September 30, 1909, and of its supplements, dated October 18, November 23, and December 14, 1914, for the period of the present war.

Articles 21, 23, 27, 33, 35, 40, and the additions to article 23 shall be replaced by the following provisions:

ARTICLE 21. The following articles and materials, designated absolute contraband, shall be considered contraband of war:

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

3. Powder and explosives of all kinds.

4. Cannon barrels, gun mountings, limber boxes, limbers, field kitchens and bakeries, supply wagons, field forges, searchlights and searchlight accessories, and their distinctive component parts.

5. Range finders and their distinctive component parts.
6. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.
7. Clothing and equipment of a distinctively military character.
8. Saddle, draft, and pack animals suitable for use in war.
9. All kinds of harness of a distinctively military character.
10. Articles of camp equipment and their distinctive component parts.
11. Armor plates.
12. Lead, pig, sheet, or pipe.
13. Barbed wire, and implements for fixing and cutting the same.
14. Tinplate.
15. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war; ship plates and construction steel.
16. Submarine sound signaling apparatus.
17. Aeroplanes, airships, balloons, and aircraft of all kinds, and their distinctive component parts, together with accessories, articles and materials, recognizable as intended for use in connection with balloons and aircraft.
18. Implements and devices designed exclusively for the manufacture and repair of arms and munitions of war.
19. Lathes of all kinds.
20. Mining lumber.
21. Coal and coke.
22. Flax.

ARTICLE 23. The following articles and materials suitable for warlike as well as for peaceful purposes, coming under the designation of conditional contraband, shall be considered as contraband of war:

1. Foodstuffs.
2. Forage and all kinds of feeding stuffs.
3. Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
4. Wool from animals, raw or dressed, together with woolen carded yarns, and worsted yarns.
5. Gold and silver, in coin or bullion; paper money.
6. Vehicles of all kinds, especially all motor vehicles available for use in war, and their component parts.
7. Rubber tires for motor vehicles, together with all articles or materials especially used in the manufacture or repair of rubber tires.
8. Rubber and gutta-percha, together with goods made thereof.
9. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
10. Fuel, excepting coal and coke; lubricants.
11. Sulphur, sulphuric acid, nitric acid.
12. Horseshoes and shoeing materials.
13. The following ores: Wolframite, scheelite, molybdenite, nickel ore, chrome ore, hæmatite iron ore, manganese ore, lead ore.

14. The following metals: Wolfram, molybdenum, vanadium, nickel, selenium, cobalt, hæmatite pig iron, manganese, aluminum, copper.

15. Antimony, together with the sulphides and oxides of antimony.

16. Ferro alloys, including ferrowolfram, ferromolybdenum, ferromanganese, ferrovanadium, ferrochrome.

17. Harness and saddlery.

18. Leather, treated and untreated, when suitable for saddlery, harness, military boots or military clothing.

19. Tanning materials of all kinds, including extracts used in tanning.

20. All kinds of lumber, rough or treated, especially hewn, sawed, planed, fluted, excepting mining lumber, tar of charcoal.

21. Vessels, craft, and boats of all kinds, floating docks, parts of docks, and their component parts.

The following articles can not be declared contraband of war:

1. Raw cotton, raw silk, raw jute, raw hemp.

2. Resin, lacks, hops.

3. Raw skins, horns, bones, and ivory.

4. Natural and artificial fertilizers.

5. Earth, clay, lime, chalk; stones, including marble; bricks, slates, and roofing tiles.

6. Porcelain and glass.

7. Paper, and the materials prepared for its manufacture.

8. Soap; paints, including the materials exclusively used for their manufacture, and varnish.

9. Chloride of lime, soda, caustic soda, sulphate of soda in cakes, ammonia, sulphate of ammonia, and copper sulphate.

10. Machines for agriculture, for mining, for the textile industry, and for printing.

11. Precious stones, fine stones, pearls, mother-of-pearl, and corals.

12. Clocks, standing clocks and watches, excepting chronometers.

13. Fashion and fancy goods.

14. Feathers of all kinds, hair and bristles.

15. Furniture and decorative articles, office furniture and requirements.

ARTICLE 33. In the absence of conditions to the contrary, the hostile destination referred to in article 32 is to be presumed when (A) the goods are consigned to an enemy authority or the agent of such or to a dealer shown to have supplied articles of the kind in question or products thereof to the armed forces or the administrative authorities of the enemy state; (B) the goods are consigned to order or the ship's papers do not show who is the consignee or the goods are consigned to a person in territory belonging to or occupied by the enemy; (C) the goods are destined for an armed place of the enemy or a place serving as a base of operations or supplies to the armed forces of the enemy.

Merchant vessels themselves are not to be considered as destined for the armed forces or the administrative authorities of the enemy

solely for the reason that they are found en route to one of the places referred to under letter C.

ARTICLE 35. Articles of conditional contraband are liable to seizure only on a vessel en route to territory belonging to or occupied by the enemy or to the armed forces of the enemy, and such vessel is not intended to unload these articles in an intermediate neutral port—that is to say, in a port at which the vessel is to call previous to reaching the ultimate destination designated.

This paragraph shall not apply if the conditions provided in article 33, letter B, are present or if the vessel is bound for a neutral country with regard to which it is shown that the enemy government draws articles of the kind in question from that country.

ARTICLE 40. A vessel can not be captured on the ground of an already completed voyage carrying contraband. If, however, the vessel carried contraband to the enemy contrary to the indications of the ship's papers, it shall be liable to capture and condemnation until the end of the war.

This ordinance shall take effect the day of its promulgation.

Chief Headquarters, April 18, 1915.

[L.S.]

(Signed)

WILHELM.
v. TIRPITZ.

PART III.

MINE AREAS.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, August 7, 1914.

Mr. Gerard reports that he is informed by the German Foreign Office that German ports are strewn with mines, and it is requested that timely warning be given shippers against navigating in ports which foreign forces might use as bases.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
New York, September 10, 1914.

MR. SECRETARY OF STATE:

By direction of my Government I have the honor respectfully to bring the following to Your Excellency's knowledge.

No foundation for idea prevalent among neutrals abroad that

because of the blockade of German ports sea trade with Germany is tied up. No port is blockaded and nothing stands in the way of neutral states' sea trade with Germany.

The assertions from England that the North Sea has been infested with mines by Germany are wrong.

Neutral vessels bound for German ports in the North Sea must steer by day for a point 10 nautical miles N. W. off Helgoland. There will German pilots be found in readiness to pilot the ships into port.

Neutral vessels must sail direct for Baltic seaports, every one of which has pilots.

The prohibition of coal export does not include bunker coal and coaling is assured.

Accept, etc.,

J. BERNSTORFF.

Ambassador W. H. Page to the Secretary of State.

AMERICAN EMBASSY,

London, September 28, 1914.

SIR: I have the honor to transmit herewith a protest made by the British Government against the methods pursued by the German Navy in laying mines in the North Sea.

This protest was inclosed to me by His Majesty's Secretary of State for Foreign Affairs, in a communication requesting that it be forwarded to the Government of the United States.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

His Majesty's Government consider it their duty to bring before the notice of the United States Government the practice which is being pursued by the German naval authorities in laying mines on the high seas on the trade routes, not only to British but to neutral ports, and in furtherance of no definite military operation. His Majesty's Government have reason to think that fishing vessels, possibly disguised as neutral, are employed for the purpose, and lay these mines under the pretense of following the ordinary avocations of fishing. Mines have been found in several cases as much as 50 miles from the coast.

This practice has already resulted, since the commencement of the war, in the destruction of eight neutral and seven British merchant and fishing vessels, so far as at present ascertained, with the loss of some sixty lives of neutral and noncombatant persons.

The practice of laying mines indiscriminately and in large numbers on high seas, entirely regardless of the dangers to peaceful shipping, is in flagrant violation of the accepted principles of international law and contrary to the primary dictates of humanity. It is also in direct contradiction with the language of Baron Marschall von Bieberstein, who, as First German delegate at the Peace Conference of 1907, spoke as follows: "We do not intend, if I may employ an expression used by the British delegate, 'to sow mines in profusion on every sea.' . . . We do not hold the opinion that everything which is not expressly forbidden is permitted."

The freedom of the seas for peaceful trading is an established and universally accepted principle; this fact has never been more clearly recognized than in the words of the report of the third Committee of the Second Peace Conference, which dealt with the question of submarine contact mines: "Even apart from any written stipulation it can never fail to be present in the minds of all that the principle of the liberty of the seas, with the obligations which it implies on behalf of those who make use of this way of communication open to the nations, is the indisputable prerogative of the human race."

This principle received further recognition in the 3rd article of the Convention relating to the laying of submarine contact mines:

"When anchored automatic contact mines are employed, every possible precaution must be taken for the security of peaceful shipping.

"The belligerents undertake to do their utmost to render these mines harmless after a limited time has elapsed, and, should the mines cease to be under observation, to notify the danger zones as soon as military exigencies permit, by a notice to mariners, which must also be communicated to the Governments through the diplomatic channel."

Not only have the German Government neglected to take every possible precaution for the safety of neutral shipping, but they have, on the contrary, deliberately and successfully contrived to sow danger in its track. The mined zones have not been kept under observation nor has any notification of their locality ever been made. The provisions of this article, which the German Government are pledged to observe, have therefore been violated in three distinct ways.

Article 1, Section 2, of the same convention has equally been violated by the German Government, for the mines which they have laid have in numerous instances been found adrift from their moorings without having become harmless. Yet the German Government made no reservation respecting this article either when signing or ratifying the Convention.

The degree of respect with which the German Government treat their written pledges, and the pledges given verbally in their name by their representatives, is sufficiently apparent from what is stated

above. It is brought into yet higher relief in the light of the following statement made by Baron Marschall before the third Committee of the last Peace Conference, and repeated by him in full, and with added emphasis, at the 8th plenary meeting of the Conference:

"A belligerent who lays mines assumes a very heavy responsibility toward neutrals and peaceful shipping. . . . No one will resort to such means unless for military reasons of an absolutely urgent character. But military acts are not governed solely by principles of international law. There are other factors: conscience, good sense, and the sentiment of duty imposed by principles of humanity will be the surest guides for the conduct of sailors, and will constitute the most effective guarantee against abuses. The officers of the German Navy, I emphatically affirm, will always fulfill, in the strictest fashion, the duties which emanate from the unwritten law of humanity and civilization."

His Majesty's Government desire to place on record their strong protest against the illegitimate means of conducting warfare which has been resorted to by their adversaries. They feel that its manifest inhumanity must call down upon its authors the censure and reprobation of all civilized peoples.

FOREIGN OFFICE,

September 26, 1914.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

BERLIN, November 13, 1914.

SIR: With reference to my cipher telegram No. 823, dated November 12, 1914,¹ I have the honor to transmit to you herewith a copy in translation of the reply of the German Government to the protest of the British Government against the laying of German mines.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

REPLY OF THE GERMAN GOVERNMENT TO THE PROTEST OF THE BRITISH
GOVERNMENT AGAINST THE LAYING OF GERMAN MINES.

It has been brought to the knowledge of the German Government that the British Government addressed a Note to the neutral Powers

¹ Not printed: gives purport of inclosure herewith.

under date September 20th, 1914, protesting against the laying of German mines. It is asserted in the protest that the mines were laid in a way contrary to international law and in forbidden localities; that they were not sufficiently anchored or under proper observance; and were not notified to the neutrals in accordance with rule. Furthermore attention is called to the declarations of the first German delegate at the Second Hague Peace Conference which are in contradiction with such practice and likewise to the deliberate injury to neutral trade which Germany's action on the open sea is alleged to involve.

The German Government makes the following reply to this protest:

I.

In condemning the alleged German practice the British Government relies on the 8th Hague Convention of October 18th, 1907, relative to the laying of automatic submarine contact mines. It overlooks the fact that under Article 7 of this Convention its provisions do not apply unless all the belligerents are parties to the Convention. Now Russia, which is allied with England, has not ratified the Agreement; it is therefore not binding by international law on any of the participants in the present war.

Nevertheless the German Government has voluntarily held itself bound by its provisions, with the exception of Article 2, with regard to which France as well as Germany made express reservations. The assertion of the British Government that these provisions have been violated by Germany is emphatically denied.

II.

To firstly the British Government finds it a breach of international law that the German mines were apparently laid by fishing vessels, possibly under neutral flag, under the pretense of following the ordinary peaceable avocations of fishing. This assertion is incorrect and an invention; the German mines were laid exclusively by German warships.

2. The British Government complains that German mines were laid as far as 50 miles from the British coast and not only on British but neutral trade routes. The Convention does not stipulate how far from the coast and ports of an enemy mines may be anchored, and there is no established practice in this respect in international law; moreover the English statement of the distance of the German mines from the menaced coast is much exaggerated. The mines have been laid as close as the conditions of the anchoring grounds and the character of the coast permitted. The assertion that neutral trade routes have been blocked is untrue; no German mines have been laid in any trade route from the high seas to a neutral port.

3. The British Protest maintains further that in numerous cases German mines were found adrift without having become harmless.

The anchoring of mines by Germany has been carried out with all possible precaution. If some have drifted from their moorings in consequence of currents or storms their number is certainly much smaller than that of mines laid by England which have drifted ashore on the Belgian and Dutch coasts and have caused damage there through their undiminished explosive power.

4. The obligation of keeping mines under surveillance which the British Government complains has been violated can naturally be enjoined upon a belligerent only as long as he retains command over that part of the seat of war where he has laid mines in a manner permitted by international law. As a rule, therefore, this obligation will apply only to defensive mines but not to offensive mines. When a belligerent has properly laid offensive mines and has duly notified their laying he is relieved of all further responsibility.

5. In the British protest the charge is made that the German Government never issued any proclamation as to the places where mines were laid. This charge is not founded in fact. On August 7th, 1914, the German Government communicated to all the neutral powers that the trade routes to English ports would be closed by mines by Germany. Neutral shipping was therefore notified of the fact of the laying of the mines and the zones where it had to look out for German mines. If the German Government did not give the exact situation of the various mines this may well be understood from the conditions which forced the laying of the mines.

III.

The volume of strong words and moral indignation with which the British protest denounces the German Government to the neutral powers is not, therefore, justified at all by Germany's practice. This protest is plainly nothing but a cloak to cover up the serious violations of existing international law laid down in the Declaration of London, indulged in by England and a pretext to prepare public opinion for the closing of the North Sea, contrary to international law, which has since taken place and is equivalent in its economic importance to a blockade of neutral coasts. In view of these facts it is doubly remarkable that the British Government constitutes itself the advocate of the "established and generally accepted principle of the freedom of the seas for peaceful trade." Obviously in the eyes of England which is at war, the only peaceful trade is that neutral trade which brings goods to England, but not that which carries or might carry goods to her opponents.

The German Government is convinced that the continual violation of neutral trade by England will everywhere place the British protest in its true light. The German Government is satisfied that for its part, in taking the measures required by military exigency, it has reduced as far as possible risk or injury to neutral shipping, and has strictly followed the rules hitherto applied by civilized nations to

maritime warfare. On the other hand, the infringement of vital neutral interests by England is capable of justification by no military exigency, since it has no connection with any military operations and is merely intended to strike at the economic system of the adversary by crippling legitimate neutral trade. This fundamental disregard of the very freedom of the seas which it has invoked deprives the British Government of any right to appear as the advocate of this freedom in the question of the laying of mines, which is far less injurious to neutrals.

BERLIN, *November 7, 1914.*

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, November 17, 1914.

SIR: With reference to your cable No. 598¹ of November 9, 1914, and my reply No. 850² of November 16, I have the honor to transmit to you herewith a copy in translation of a communication received from the Imperial Foreign Office, dated November 14, 1914, relative to the regulations for navigation in the German bay of the North Sea.

Two copies of the publication, entitled *Nachrichten für Seefahrer*, in which these regulations are printed, are likewise inclosed.

I have, etc.

JAMES W. GERARD.

[Inclosure—Translation.]

The Foreign Office has the honor to inform the Embassy of the United States of America in reply to the Note Verbale of 12th instant, F. O. No. 1078, that the following are the material regulations, governing navigation in the German Bay of the North Sea:

1. Steamships are permitted to make for the German coast, to enter or leave the mouths of rivers only from sunrise to sunset, and in clear weather. Ships attempting to point for the coast in the dark, in foggy or thick weather, run the risk of being shot at.

2. All commercial steamers bound for the Eider, Elbe, Weser and Jade must first point for the Listertief-Buoy; those bound for the Ems should make directly for its mouth.

3. In the interest of the safety of the ships, a pilot is obligatory from the Listertief-Buoy.

4. If ships cannot obtain pilots, on account of bad weather or

¹ Not printed.

² Not printed; gives substance of inclosure herewith.

for other reasons, they must either anchor or put out to sea again.

The approximate location of the Listertief-Buoy is 55° 34' North, 8° 17½' East.

For the rest reference made to issue No. 59 of the *Nachrichten für Seefahrer* of 4th instant, pages 1006 and 1007, two copies of which are attached.¹

American shipping interests can obtain any further information from the *Nachrichten für Seefahrer* which is accessible to them.

BERLIN, November 14, 1914.

NACHRICHTEN FÜR SEEFAHRER.

No. 52—Berlin, 1 October, 1914. P. 1006.

III. NORTH SEA.

3093/14--German Bay (Deutsche Bucht). Sailing regulations.
H. 9342. November 4, 1914.

Supplementing N. F. S.—2770 the following directions are issued for the regulation of navigation in the Deutsche Bucht of the North Sea.

1. Steamers may not steer for the German Coast, sail in or out of the mouths of rivers except between sunrise and sunset and then in clear weather only. Vessels which attempt to make way in darkness, fog or dim weather are liable to be fired on.

2. All merchant steamers bound for the Eider, the Elbe, the Weser and the Jade must first head for the Listertief steerage buoy. Those bound for the Ems make directly for that river.

3. From the Listertief buoy on in the very interest of the ship's safety unconditionally obligatory pilot service is prescribed. Pilots will be furnished from the pilot steamer lying there. The pilot's directions are to be followed unconditionally. Whoever fails to do so or attempts to steer from the German Bay without a pilot incurs great danger.

4. If on account of bad weather or other causes the ships cannot get a pilot they must drop anchor or put back to sea.

5. Outgoing steamers receive their pilots and other instructions from the port authorities.

6. The same rules apply to foreign war ships.

7. Navigation by sail to and from the harbors of the German Bay of the North Sea is totally stopped because of the danger therein involved.

¹ Not printed.

NACHRICHTEN FÜR SEEFÄHRER.

No. 52—Berlin, 1 October, 1914. P. 898.

III. NORTH SEA.

2770/14. Germany—North Sea—Making for harbors.

H 8088/14—Berlin, September 26, 1914.

The course of merchant vessels bound for German North Sea ports in the Jade, Weser, Elbe and Eider is set at the Listertief steerage buoy. The course of the Ems remains as in peace. The directions of N. F. S. 14-2248. Figure 2 paragraph 2 and No. 2423, paragraph 3 are at the same time superseded.

Approximate position of the Listertief steerage buoy: $55^{\circ} 3\frac{3}{4}'$ N.; $8^{\circ} 17\frac{1}{2}'$ W.

NACHRICHTEN FÜR SEEFÄHRER.

No. 62—Berlin, November 10, 1914. P. 1029.

3161/14. Navigation of the North Sea—Announcement.

A IV—11563, November 9, 1914.

The British Government on November 2, 1914, issued, on the basis of a false accusation that Germany had, with hospital ships and merchant vessels under a neutral flag laid mines and reconnoitered in the North Sea, a notice to mariners sailing to and in the North Sea, which recommended to vessels, on the pretext of danger from mines in the North Sea to pass through the Channel, the Downs, and along the English coast and warned them against sailing through the North Sea and around the Orkney and Shetland Islands.

In contradiction of this it is pointed out that the waters of the Northern North Sea including the line running from the Hebrides across the Faroe Islands to Iceland, the waters along the Norwegian Coast and in the Skagerrak are generally so deep as to exclude all laying of mines. On the other hand it is known that in the South of the North Sea and in the Channel a number of mines, and as has been ascertained, mines of English and French origin, are drifting about that have not been deadened, and that at many places of the course along the English Eastern Coast recommended by England mines have been laid of which several were run into adrift lately.

The course recommended by England, through the Channel, the Downs and along the English East Coast is therefore very dangerous to shipping, while the course through the North of the North Sea is free of mines and therefore free of danger.

See N. F. S. 14-262.

The Secretary of State to Ambassador Gerard.

DEPARTMENT OF STATE,
Washington, December 8, 1914.

SIR: In further acknowledgment of your dispatch No. 261, of November 13, 1914, transmitting a copy in translation of the reply of the German Government to the protest of the British Government against the laying of German mines, you are informed that a copy thereof has been forwarded to the American Ambassador at London for transmission to the British Foreign Office without comment.

I am, etc.;

For the Secretary of State:

ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, February 22, 1915.

Mr. Gerard states that it is reported by the Consular Agent at Bremerhaven that the vessel *Evelyn* was sunk by a mine on the night of the twentieth between Norderney and the Isle of Borkum. One of the three boats, which were manned and left the vessel, is missing. It is said that a German scout boat saved the captain and twenty-eight men of the *Evelyn*. American steamers now at Bremen can take the survivors to America.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, February 22, 1915.

Consul General Bremerhaven reports steamer *Evelyn* ran on two mines nineteenth, four a. m., near Isle Borkum, sank seven hours later. Only two boats manned: Captain Smith, thirteen men, Dutch pilot in one; First Officer Senson, thirteen men in other. First boat said to have been rescued ten o'clock Saturday morning, but present whereabouts yet unknown. Latter boat picked up by German scoutship *Mars* four o'clock Saturday afternoon; taken to Heligoland. Thirteen men brought to Bremerhaven, put in sailors' home. Spanish stoker, Hans Ilaro, frozen and buried at sea; appears to be only death. Other survivors expected to-morrow. Those in Bremerhaven out of danger.

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, February 25, 1915.

Consular Agent, Bremerhaven, reports *Carib* apparently ran on mine twenty-second, eleven a. m., ten miles west Norderney, soon sank. Three of crew of thirty lost. Captain Cole and twenty-six men picked up hour and half later by German scout-boat *Annie Busse*; brought to Bremerhaven twenty-fourth, ten p. m.

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, February 25, 1915.

Mr. Gerard states that Commander Gherardi has been informed by the Admiralty that the vessel *Evelyn* sank in latitude 53° 52' North, longitude 6° 7' East.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, March 1, 1915.

MR. SECRETARY OF STATE:

Pursuant to instructions, I have the honor to inform your excellency that the American vessels *Evelyn* and *Carib* were lost in the North Sea because, contrary to the directions given in the *Nachrichten für Seefahrer* (Notice to Mariners) No. 2770-14, 3093-14 and 33-15, they ran along the East Friesian Islands by direction, as stated by the captain of the *Evelyn*, of a British warship.¹

The Imperial Government urgently recommends all vessels for Helgoland Bay from the coast of the Netherlands to sail up to about the fifty-fifth degree of latitude from the Terschelling Lighthouse and then steer for Listertief and there wait for a German pilot. He alone can furnish reliable information to navigate the German Bay.

The safest course is that given in No. 3161-14 of the *Nachrichten für Seefahrer*.

Accept, etc.,

J. BERNSTORFF.

¹ A note from the British Ambassador, dated February 25, 1915, states that "the British naval officer who boarded the *Evelyn* gave no instructions of any kind to the master of that vessel."

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, March 2, 1915.

Mr. Gerard reports the return of Naval Attaché, Gherardi from Bremen where he was sent to obtain the statements of the captains of the vessels *Evelyn* and *Carib*. Both of the vessels were sunk by mines. The British gave no false directions as reported. Both of the vessels simply ran on mine field.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, D. C., March 26, 1915.

MR. SECRETARY OF STATE:

Referring to your Excellency's kind note of the 5th instant about the sinking of the American steamer *Evelyn*, I have the honor to make to your Excellency the following communication:

The investigation of the *Evelyn* and *Carib* casualties brought to light the fact that the vessels had on board Dutch, not German pilots. Those pilots appear to have been furnished by the Rotterdam branch of the English Furness Steamship Company. Those pilots according to the inquiries made are not competent to navigate German waters. It was found, for instance, that H. Benne, the pilot taken by the steamer *Osmulgu*, who was formerly a Dutch district pilot but is already on the pension list, declared he knew nothing of a certain sailing direction for the German coast which is enough to show that he is not fit to steer a vessel to Germany. As a matter of fact he did not ever observe the sailing directions issued by the German Admiralty for the German coast and it was just luck that saved the *Osmulgu* from the fate of the *Evelyn*.

The master of the *Evelyn* declared that he sailed through the Channel and had a mine pilot along the English coast. It seems that the English officer who came on board with the pilot told him that he should steer not the Northern course but the Southerly course below the East Friesian Islands, which was the course taken by the other steamers. Whereupon he steamed for Rotterdam and there took a pilot. On being asked why he had not steered for Listertief, he replied that he had left everything to the pilot.

According to his chart the casualty occurred fifty-three degrees fifty-two minutes north six degrees seven minutes east. The pilot who had the looks of an old Dutch fisherman and made a rather unfavorable impression declared that he had steered that course because he

had heard that other ships had taken it. In reply to a question he said that he had never come with a ship into the German Bay since the war began.

In order to avert further casualties as much as possible I have the honor to leave it to your excellency kindly to consider whether it may not be advisable to warn in such manner as may seem appropriate the American steamship companies concerned against applying to the above mentioned firms for pilots. I make this recommendation all the stronger as there is reason to suspect that the enemy will spare no efforts to expose ships bound for Germany to danger and that influence is possibly brought to bear on the pilot service. I would in this connection again repeat that the course recommended in the *Nachrichten für Seefahrer*, No. 3161/14, North around Scotland to the guiding buoys of Listertief offers the least danger.

Accept, etc.,

J. BERNSTORFF.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, April 12, 1915.

SIR: I have the honor to transmit herewith inclosed a translation of a Note received from the German Foreign Office relative to the sinking of the American cotton steamers *Evelyn* and *Carib*.

I have, etc.,

JAMES W. GERARD.

[Inclosure.]

FOREIGN OFFICE,
Berlin, March 10, 1915.

NOTE VERBALE.

With reference to its Note Verbale of the 3rd instant, No. 11 U 901, the Foreign Office has the honor to inform the American Embassy that from now available investigations and reports in the matter of the American cotton ships, *Evelyn*, *Carib*, and *Ocmulgee*, it is established that the loss of the two steamers *Evelyn* and *Carib* is to be ascribed to the captains and to the inadequacy of the pilots taken by them. The captains did not observe the directions given them in the United States and the pilots undertook a task to which they were in no way equal.

As the Admiralty has already directly informed the Embassy Naval Attaché, the captains and crews have complete freedom of action.

PART IV.

SUBMARINE WARFARE.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, February 6, 1915.

MR. SECRETARY OF STATE:

By direction of my Government I have the honor to communicate the following to Your Excellency.

It is known to the Imperial Government that Great Britain is on the point of shipping to France large forces of troops and quantities of implements of war. Germany will oppose this shipment with every war means at its command.

As peaceful craft may be, from being mistaken for vessels engaged in war operations, exposed to serious danger, the Imperial Government is placed under the necessity of warning of such danger vessels approaching the North and West Coasts of France. Merchant vessels repairing to the North Sea are advised to steer around Scotland.

Accept, etc.,

For the Imperial Ambassador:

HANIEL.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, February 6, 1915.

SIR: I have the honor to transmit to you herewith two copies of the proclamation of the German Admiralty of February 4, 1915, declaring the waters surrounding Great Britain and Ireland to be comprised within the seat of war, as well as two copies each in German and French of the memorial of the Imperial Government on this subject and an English translation of the same.

I have, etc.,

JAMES W. GERARD.

[Inclosure 1—Translation.]

PROCLAMATION.

1. The waters surrounding Great Britain and Ireland including the whole English channel are hereby declared to be war zone. On and after the 18th of February, 1915, every enemy merchant ship found in the said war zone will be destroyed without its being always

possible to avert the dangers threatening the crews and passengers on that account.

2. Even neutral ships are exposed to danger in the war zone as in view of the misuse of neutral flags ordered on January 31 by the British Government and of the accidents of naval war, it cannot always be avoided to strike even neutral ships in attacks that are directed at enemy ships.

3. Northward navigation around the Shetland Islands, in the eastern waters of the North Sea and in a strip of not less than 30 miles width along the Netherlands coast is in no danger.

VON POHL,

Chief of the Admiral Staff of the Navy.

Berlin, February 4, 1915.

[Inclosure 2—Translation.]

MEMORIAL OF THE IMPERIAL GERMAN GOVERNMENT RESPECTING RETALIATORY MEASURES RENDERED NECESSARY BY THE MEANS EMPLOYED BY ENGLAND CONTRARY TO INTERNATIONAL LAW IN INTERCEPTING NEUTRAL MARITIME TRADE WITH GERMANY.

Since the commencement of the present war Great Britain's conduct of commercial warfare against Germany has been a mockery of all the principles of the law of nations. While the British Government have by several orders declared that their naval forces should be guided by the stipulations of the Declaration of London, they have in reality repudiated this Declaration in the most essential points, notwithstanding the fact that their own delegates at the Maritime Conference of London acknowledged its acts as forming part of existing international law. The British Government have placed a number of articles on the contraband list which are not at all, or only very indirectly capable of use in warfare, and consequently cannot be treated as contraband either under the Declaration of London or under the generally acknowledged rules of international law. In addition, they have in fact obliterated the distinction between absolute and conditional contraband by confiscating all articles of conditional contraband destined for Germany, whatever may be the port where these articles are to be unloaded, and without regard to whether they are destined for uses of war or peace. They have not even hesitated to violate the Declaration of Paris, since their naval forces have captured on neutral ships German property which was not contraband of war. Furthermore, they have gone further than their own orders respecting the Declaration of London and caused numerous German subjects capable of bearing arms to be taken from neutral ships and made prisoners of war. Finally, they have declared the North Sea in its whole extent to be the seat of war, thereby rendering difficult and extremely dangerous, if not impossible, all navigation on the high

seas between Scotland and Norway, so that they have in a way established a blockade of neutral coasts and ports, which is contrary to the elementary principles of generally accepted international law. Clearly all these measures are part of a plan to strike not only the German military operations but also the economic system of Germany, and in the end to deliver the whole German people to reduction by famine, by intercepting legitimate neutral commerce by methods contrary to international law.

The neutral powers have in the main acquiesced in the measures of the British Government; in particular they have not been successful in securing the release by the British Government of the German subjects and German merchandise illegally taken from their vessels. To a certain extent they have even contributed toward the execution of the measures adopted by England in defiance of the principle of the freedom of the seas by prohibiting the export and transit of goods destined for peaceable purposes in Germany, thus evidently yielding to pressure by England. The German Government have in vain called the attention of the neutral powers to the fact that Germany must seriously question whether it can any longer adhere to the stipulations of the Declaration of London, hitherto strictly observed by it, in case England continues to adhere to its practice, and the neutral powers persist in looking with indulgence upon all these violations of neutrality to the detriment of Germany. Great Britain invokes the vital interests of the British Empire which are at stake in justification of its violations of the law of nations, and the neutral powers appear to be satisfied with theoretical protests, thus actually admitting the vital interests of a belligerent as a sufficient excuse for methods of waging war of whatever description.

The time has come for Germany also to invoke such vital interests. It therefore finds itself under the necessity, to its regret, of taking military measures against England in retaliation of the practice followed by England. Just as England declared the whole North Sea between Scotland and Norway to be comprised within the seat of war, so does Germany now declare the waters surrounding Great Britain and Ireland, including the whole English Channel to be comprised within the seat of war, and will prevent by all the military means at its disposal all navigation by the enemy in those waters. To this end it will endeavor to destroy, after February 18 next, any merchant vessels of the enemy which present themselves at the seat of war above indicated, although it may not always be possible to avert the dangers which may menace persons and merchandise. Neutral powers are accordingly forewarned not to continue to intrust their crews, passengers, or merchandise to such vessels. Their attention is furthermore called to the fact that it is of urgency to recommend to their own vessels to steer clear of these waters. It is true that the German Navy has received instructions to abstain from all violence against neutral vessels recognizable as such; but in view of the hazards of war, and of the misuse of the neutral flag ordered by the British Government, it will not always be possible to prevent a

neutral vessel from becoming the victim of an attack intended to be directed against a vessel of the enemy. It is expressly declared that navigation in the waters north of the Shetland Islands is outside the danger zone, as well as navigation in the eastern part of the North Sea and in a zone thirty marine miles wide along the Dutch coast.

The German Government announces this measure at a time permitting enemy and neutral ships to make the necessary arrangements to reach the ports situated at the seat of war. They hope that the neutral powers will accord consideration to the vital interests of Germany equally with those of England, and will on their part assist in keeping their subjects and their goods far from the seat of war; the more so since they likewise have a great interest in seeing the termination at an early day of the war now ravaging.

Berlin, February 4, 1915.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 10, 1915.

Please address a note immediately to the Imperial German Government to the following effect:

The Government of the United States, having had its attention directed to the proclamation of the German Admiralty issued on the 4th of February, that the waters surrounding Great Britain and Ireland, including the whole of the English Channel, are to be considered as comprised within the seat of war; that all enemy merchant vessels found in those waters after the eighteenth instant will be destroyed, although it may not always be possible to save crews and passengers; and that neutral vessels expose themselves to danger within this zone of war because, in view of the misuse of neutral flags said to have been ordered by the British Government on the 31st of January and of the contingencies of maritime warfare, it may not be possible always to exempt neutral vessels from attacks intended to strike enemy ships, feels it to be its duty to call the attention of the Imperial German Government, with sincere respect and the most friendly sentiments but very candidly and earnestly, to the very serious possibilities of the course of action apparently contemplated under that proclamation.

The Government of the United States views those possibilities with such grave concern that it feels it to be its privilege, and indeed its duty in the circumstances, to request the Imperial German Government to consider before action is taken the critical situation in respect of the relations between this country and Germany which might arise were the German naval forces, in carrying out the policy foreshadowed

in the Admiralty's proclamation, to destroy any merchant vessel of the United States or cause the death of American citizens.

It is of course not necessary to remind the German Government that the sole right of a belligerent in dealing with neutral vessels on the high seas is limited to visit and search, unless a blockade is proclaimed and effectively maintained, which this Government does not understand to be proposed in this case. To declare or exercise a right to attack and destroy any vessel entering a prescribed area of the high seas without first certainly determining its belligerent nationality and the contraband character of its cargo would be an act so unprecedented in naval warfare that this Government is reluctant to believe that the Imperial Government of Germany in this case contemplates it as possible. The suspicion that enemy ships are using neutral flags improperly can create no just presumption that all ships traversing a prescribed area are subject to the same suspicion. It is to determine exactly such questions that this Government understands the right of visit and search to have been recognized.

This Government has carefully noted the explanatory statement issued by the Imperial German Government at the same time with the proclamation of the German Admiralty, and takes this occasion to remind the Imperial German Government very respectfully that the Government of the United States is open to none of the criticisms for unneutral action to which the German Government believe the governments of certain of other neutral nations have laid themselves open; that the Government of the United States has not consented to or acquiesced in any measures which may have been taken by the other belligerent nations in the present war which operate to restrain neutral trade, but has, on the contrary, taken in all such matters a position which warrants it in holding those governments responsible in the proper way for any untoward effects upon American shipping which the accepted principles of international law do not justify; and that it, therefore, regards itself as free in the present instance to take with a clear conscience and upon accepted principles the position indicated in this note.

If the commanders of German vessels of war should act upon the presumption that the flag of the United States was not being used in good faith and should destroy on the high seas an American vessel or the lives of American citizens, it would be difficult for the Government of the United States to view the act in any other light than as an indefensible violation of neutral rights which it would be very hard indeed to reconcile with the friendly relations now so happily subsisting between the two Governments.

If such a deplorable situation should arise, the Imperial German Government can readily appreciate that the Government of the United States would be constrained to hold the Imperial German Government to a strict accountability for such acts of their naval authorities and to take any steps it might be necessary to take to safeguard American lives and property and to secure to American citizens the full enjoyment of their acknowledged rights on the high seas.

The Government of the United States, in view of these considerations, which it urges with the greatest respect and with the sincere purpose of making sure that no misunderstanding may arise and no circumstance occur that might even cloud the intercourse of the two Governments, expresses the confident hope and expectation that the Imperial German Government can and will give assurance that American citizens and their vessels will not be molested by the naval forces of Germany otherwise than by visit and search, though their vessels may be traversing the sea area delimited in the proclamation of the German Admiralty.

It is added for the information of the Imperial Government that representations have been made to His Britannic Majesty's Government in respect to the unwarranted use of the American flag for the protection of British ships.

BRYAN.

The German Minister for Foreign Affairs to Ambassador Gerard.

BERLIN, February 16, 1915.

In reference to the note of the 12th instant, Foreign Office number twenty-two sixty, relative to the German measures respecting the theater of war in the waters surrounding England, the undersigned has the honor to reply to His Excellency the Ambassador of the United States, James W. Gerard, as follows:

The Imperial German Government have examined the communication of the Government of the United States in the same spirit of good will and friendship which seems to have prompted this communication.

The Imperial German Government are in entire accord with the Government of the United States that it is in the highest degree desirable for all parties to avoid the misunderstanding which might arise from the measures announced by the German Admiralty and to avert the intrusion of events calculated to interrupt the most friendly relations which have so happily existed between the two Governments up to this time.

On this assurance the German Government believe that they may depend on full understanding on the part of the United States, all the more because the action announced by the German Admiralty, as was dwelt upon at length in the note of the 4th instant, is in no wise directed against the legitimate trade and navigation of neutral states, but merely represents an act of self-defense which Germany's vital interests force her to take against England's method of conducting maritime war in defiance of international law, which no

protest on the part of neutrals has availed to bring into accordance with the legal status generally recognized before the outbreak of hostilities.

In order to exclude all possible doubt on this cardinal point the German Government beg to set forth once more the actual situation.

Up to now Germany has scrupulously observed the existing provisions of international law relative to maritime war. In particular she assented without delay to the proposal made by the American Government directly after the war began to ratify the Declaration of London and embodied the contents thereof without change in her prize law, even without formally binding herself in this direction. The German Government have adhered to these provisions, even where they conflicted with military interests. Our Government at the same time have permitted the supply of food by Denmark to England until the present, although they could well have prevented this traffic by means of their naval forces.

In direct opposition to this, England has not shrunk from grave violations of international law wherever she could thereby cripple Germany's peaceable trade with neutral countries. It will not be necessary for the German Government to go into detail on this point, especially since the American note to the British Government dated December 28, 1914, which has been brought to their knowledge, has dealt with this point very aptly if not very exhaustively on the ground of the experiences of months.

It is conceded that the intention of all these aggressions is to cut off Germany from all supplies and thereby to deliver up to death by famine a peaceful civilian population, a procedure contrary to law of war and every dictate of humanity.

The neutrals have not been able to prevent this interception of different kinds of trade with Germany contrary to international law. It is true that the American Government have protested against England's procedure, and Germany is glad to acknowledge this, but in spite of this protest and the protests of the other neutral Governments England has not allowed herself to be dissuaded from the course originally adopted. Thus the American ship *Wilhelmina* was recently brought into port by England, although her cargo was destined solely for the civil population of Germany and was to be used only for this purpose according to an express declaration of the German Government.

In this way the following has been created: Germany is to all intents and purposes cut off from oversea supplies with the toleration,

tacit or protesting, of the neutrals regardless of whether it is a question of goods which are absolute contraband or only conditional contraband or not contraband at all, following the law generally recognized before the outbreak of the war. On the other hand England with the indulgence of neutral Governments is not only being provided with such goods as are not contraband or merely conditional contraband, namely, foodstuffs, raw material, etc., although these are treated by England when Germany is in question as absolute contraband, but also with goods which have been regularly and unquestionably acknowledged to be absolute contraband. The German Government believe that they are obliged to point out very particularly and with the greatest emphasis, that a trade in arms exists between American manufacturers and Germany's enemies which is estimated at many hundred million marks.

The German Government have given due recognition to the fact that as a matter of form the exercise of rights and the toleration of wrong on the part of neutrals is limited by their pleasure alone and involves no formal breach of neutrality. The German Government have not in consequence made any charge of formal breach of neutrality. The German Government cannot, however, do otherwise, especially in the interest of absolute clearness in the relations between the two countries, than to emphasize that they, in common with the public opinion in Germany, feel themselves placed at a great disadvantage through the fact that the neutral powers have hitherto achieved no success or only an unmeaning success in their assertion of the right to trade with Germany, acknowledged to be legitimate by international law, whereas they make unlimited use of their right to tolerate trade in contraband with England and our other enemies. Conceded that it is the formal right of neutrals not to protect their legitimate trade with Germany and even to allow themselves knowingly and willingly to be induced by England to restrict such trade, it is on the other hand not less their good right, although unfortunately not exercised, to stop trade in contraband, especially the trade in arms, with Germany's enemies.

In view of this situation the German Government see themselves compelled, after six months of patience and watchful waiting, to meet England's murderous method of conducting maritime war with drastic counter measures. If England invokes the powers of famine as an ally in its struggles against Germany with the intention of leaving a civilized people the alternative of perishing in misery or submitting to the yoke of England's political and commercial will, the German

Government are to-day determined to take up the gauntlet and to appeal to the same grim ally. They rely on the neutrals who have hitherto tacitly or under protest submitted to the consequences, detrimental to themselves, of England's war of famine to display not less tolerance toward Germany, even if the German measures constitute new forms of maritime war, as has hitherto been the case with the English measures.

In addition to this, the German Government are determined to suppress with all the means at their disposal the supply of war material to England and her allies and assume at the same time that it is a matter of course that the neutral Governments which have hitherto undertaken no action against the trade in arms with Germany's enemies do not intend to oppose the forcible suppression of this trade by Germany.

Proceeding from these points of view the German Admiralty has declared the zone prescribed by it the seat of war; it will obstruct this area of maritime war by mines wherever possible and also endeavor to destroy the merchant vessels of the enemy in any other way.

It is very far indeed from the intention of the German Government, acting in obedience to these compelling circumstances, ever to destroy neutral lives and neutral property, but on the other hand they cannot be blind to the fact that dangers arise through the action to be carried out against England which menace without discrimination all trade within the area of maritime war. This applies as a matter of course to war mines, which place any ship approaching a mined area in danger, even if the limits of international law are adhered to most strictly.

The German Government believe that they are all the more justified in the hope that the neutral powers will become reconciled with this, just as they have with the serious injury caused them thus far by England's measures, because it is their will to do everything in any way compatible with the accomplishment of their purpose for the protection of neutral shipping even within the area of maritime war.

They furnish the first proof of their good will by announcing the measures intended by them at a time not less than two weeks beforehand, in order to give neutral shipping an opportunity to make the necessary arrangements to avoid the threatening danger. The safest method of doing this is to stay away from the area of maritime war. Neutral ships entering the closed waters in spite of this announcement, given so far in advance, and which seriously impairs the accomplishment of the military purpose against England, bear their own

responsibility for any unfortunate accidents. The German Government on their side expressly decline all responsibility for such accidents and their consequences.

Furthermore, the German Government announced merely the destruction of enemy merchant vessels found within the area of maritime war, and not the destruction of all merchant vessels, as the American Government appear to have erroneously understood. This limitation which the German Government have imposed upon themselves impairs the military purpose, especially since the presumption will prevail, even in the case of neutral ships, that they have contraband on board in view of the interpretation of the idea of contraband in which the English Government have indulged as regards Germany and which the German Government will accordingly apply against England.

Naturally the Imperial Government are not willing to waive the right to establish the presence of contraband in the cargoes of neutral ships and, in cases requiring it, to take any action necessary on the grounds established. Finally the German Government are prepared to accord, in conjunction with the American Government, the most earnest consideration to any measure that might be calculated to insure the safety of legitimate shipping of neutrals within the seat of war. They cannot, however, overlook the fact that all efforts in this direction are considerably hampered by two circumstances: First, by the misuse of the neutral flag by English merchant vessels, which in the meantime has probably been established beyond a doubt by the American Government likewise. Second, by the above-mentioned trade in contraband, especially war materials, by neutral merchant vessels. In regard to the latter point, the German Government ventures to hope that the American Government upon reconsideration will see their way clear to a measure of intervention in accordance with the spirit of true neutrality.

As regards the first point, the secret order of the British Admiralty has already been communicated to the American Government by Germany. It recommends English merchant vessels to use neutral flags and has in the meantime been confirmed by a statement of the British Foreign Office which refers to the municipal law of England and characterizes such action as quite unobjectionable. The English merchant marine has followed this counsel without delay, as is probably known to the American Government, from the cases of the *Lusitania* and *Laertes*. Moreover, the British Government have armed English merchant vessels and instructed them to resist by force the German

submarines. In these circumstances it is very difficult for the German submarines to recognize neutral merchant vessels as such, for even a search will not be possible in the majority of cases, since the attacks to be anticipated in the case of a disguised English ship would expose the commanders conducting a search and the boat itself to the danger of destruction.

The British Government would then be in a position to render the German measures illusory if their merchant marine persists in the misuse of neutral flags and neutral vessels are not marked in some other manner admitting of no possible doubt. Germany must, in the exigency into which she has unlawfully been forced, make her measures effective at all events in order thereby to compel her adversary to conduct maritime warfare in accordance with international law and thus to reëstablish the freedom of the seas which she has ever advocated and for which she is fighting likewise to-day.

The German Government, therefore, welcomes the fact that the American Government have made representations to the British Government relative to the use of their flag contrary to law and give expression to the expectation that this action will cause England to respect the American flag in future.

In this expectation the commanders of the German submarines have been instructed, as was already stated in the note of fourth instant, to abstain from violence to American merchant vessels when they are recognizable as such.

In order to meet in the safest manner all the consequences of mistaking an American for a hostile merchant vessel the German Government recommended that (although this would not apply in the case of danger from mines) the United States convoy their ships carrying peaceable cargoes and traversing the English seat of maritime war in order to make them recognizable. In this connection the German Government believe it should be made a condition that only such ships should be convoyed as carry no merchandise which would have to be considered as contraband according to the interpretation applied by England against Germany. The German Government are prepared to enter into immediate negotiations with the American Government relative to the manner of convoy. They would, however, be particularly grateful if the American Government would urgently advise their merchant vessels to avoid the English seat of maritime war, at any rate until the flag question is settled.

The German Government resign themselves to the confident hope that the American Government will recognize the full meaning of the

severe struggle which Germany is conducting for her very existence and will gain full understanding of the reasons which prompt Germany and the aims of the measures announced by her from the above explanations and promises.

The German Government repeat that in the scrupulous consideration for neutrals hitherto practiced by them they have determined upon the measures planned only under the strongest compulsion of national self-preservation. Should the American Government at the eleventh hour succeed in removing, by virtue of the weight which they have the right and ability to throw into the scales of the fate of peoples, the reasons which have made it the imperative duty of the German Government to take the action indicated, should the American Government in particular find a way to bring about the observation of the Declaration of London on the part of the Powers at war with Germany and thereby to render possible for Germany the legitimate supply of foodstuffs and industrial raw materials, the German Government would recognize this as a service which could not be too highly estimated in favor of more humane conduct of war and would gladly draw the necessary conclusions from the new situation thus created.

The undersigned requests the Ambassador to bring the above to the attention of the American Government and avails himself of the opportunity to renew, etc.

VON JAGOW.

*The Secretary of State to Ambassador Gerard.*¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 20, 1915.

You will please deliver the following identic note which we are sending England and Germany:

In view of the correspondence which has passed between this Government and Great Britain and Germany respectively, relative to the Declaration of a war zone by the German Admiralty and the use of neutral flags by British merchant vessels, this Government ventures to express the hope that the two belligerent Governments may, through reciprocal concessions, find a basis for agreement which will relieve neutral ships engaged in peaceful commerce from the great dangers which they will incur in the high seas adjacent to the coasts of the belligerents.

¹ Same to the American Embassy at London.

The Government of the United States respectfully suggests that an agreement in terms like the following might be entered into. This suggestion is not to be regarded as in any sense a proposal made by this Government, for it of course fully recognizes that it is not its privilege to propose terms of agreement between Great Britain and Germany, even though the matter be one in which it and the people of the United States are directly and deeply interested. It is merely venturing to take the liberty which it hopes may be accorded a sincere friend desirous of embarrassing neither nation involved and of serving, if it may, the common interests of humanity. The course outlined is offered in the hope that it may draw forth the views and elicit the suggestions of the British and German Governments on a matter of capital interest to the whole world.

Germany and Great Britain to agree:

1. That neither will sow any floating mines, whether upon the high seas or in territorial waters; that neither will plant on the high seas anchored mines except within cannon range of harbors for defensive purposes only; and that all mines shall bear the stamp of the Government planting them and be so constructed as to become harmless if separated from their moorings.

2. That neither will use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search.

3. That each will require their respective merchant vessels not to use neutral flags for the purpose of *disguise or ruse de guerre*.

Germany to agree:

That all importations of food or foodstuffs from the United States and (from such other neutral countries as may ask it) into Germany shall be consigned to agencies to be designated by the United States Government; that these American agencies shall have entire charge and control without interference on the part of the German Government, of the receipt and distribution of such importations, and shall distribute them solely to retail dealers bearing licenses from the German Government entitling them to receive and furnish such food and foodstuffs to noncombatants only; that any violation of the terms of the retailers' licenses shall work a forfeiture of their rights to receive such food and foodstuffs for this purpose; and that such food and foodstuffs will not be requisitioned by the German Government for any purpose whatsoever or be diverted to the use of the armed forces of Germany.

Great Britain to agree:

That food and foodstuffs will not be placed upon the absolute contraband list and that shipments of such commodities will not be interfered with or detained by British authorities if consigned to agencies designated by the United States Government in Germany for the receipt and distribution of such cargoes to licensed German retailers for distribution solely to the noncombatant population.

In submitting this proposed basis of agreement this Government does not wish to be understood as admitting or denying any belligerent or neutral right established by the principles of international law,

but would consider the agreement, if acceptable to the interested powers, a *modus vivendi* based upon expediency rather than legal right and as not binding upon the United States either in its present form or in a modified form until accepted by this Government.

BRYAN.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, March 1, 1915.

Following is translation of the German reply:

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of the 22d instant that the Imperial German Government have taken note with great interest of the suggestion of the American Government that certain principles for the conduct of maritime war on the part of Germany and England be agreed upon for the protection of neutral shipping. They see therein new evidence of the friendly feelings of the American Government toward the German Government which are fully reciprocated by Germany.

It is in accordance with Germany's wishes also to have maritime war conducted according to rules which without discriminately restricting one or the other of the belligerent powers in the use of their means of warfare are equally considerate of the interests of neutrals and the dictates of humanity. Consequently it was intimated in the German note of the 16th instant that observation of the Declaration of London on the part of Germany's adversaries would create a new situation from which the German Government would gladly draw the proper conclusions.

Proceeding from this view, the German Government have carefully examined the suggestion of the American Government and believe that they can actually see in it a suitable basis for the practical solution of the questions which have arisen.

With regard to the various points of the American note they beg to make the following remarks:

1. With regard to the sowing of mines, the German Government would be willing to agree as suggested not to use floating mines and to have anchored mines constructed as indicated. Moreover, they agree to put the stamp of the Government on all mines to be planted. On the other hand, it does not appear to them to be feasible for the belligerents wholly to forego the use of anchored mines for offensive purposes.

2. The German Government would undertake not to use their submarines to attack mercantile of any flag except when necessary to enforce the right of visit and search. Should the enemy nationality

of the vessel or the presence of contraband be ascertained submarine would proceed in accordance with the general rules of international law.

3. As provided in the American note, this restriction of the use of the submarines is contingent on the fact that enemy mercantile abstain from the use of the neutral flag and other neutral distinctive marks. It would appear to be a matter of course that such mercantile also abstain from arming themselves and from all resistance by force, since such procedure contrary to international law would render impossible any action of the submarines in accordance with international law.

4. The regulation of legitimate importations of food into Germany suggested by the American Government appears to be in general acceptable. Such regulation would, of course, be confined to importations by sea, but that would on the other hand include indirect importations by way of neutral ports. The German Government would, therefore, be willing to make the declarations of the nature provided in the American note so that the use of the imported food and foodstuffs solely by the noncombatant population would be guaranteed. The Imperial Government must, however, in addition (* * *)¹ having the importation of other raw material used by the economic system of noncombatants including forage permitted. To that end the enemy Governments would have to permit the free entry into Germany of the raw material mentioned in the free list of the Declaration of London and to treat materials included in the list of conditional contraband according to the same principles as food and foodstuffs.

The German Government venture to hope that the agreement for which the American Government have paved the way may be reached, after due consideration of the remarks made above, and that in this way peaceable neutral shipping and trade will not have to suffer any more than is absolutely necessary from the unavoidable effects of maritime war. These effects could be still further reduced if, as was pointed out in the German note of the 16th instant, some way could be found to exclude the shipping of munitions of war from neutral countries to belligerents on ships of any nationality.

The German Government must, of course, reserve a definite statement of their position until such time as they may receive further information from the American Government enabling them to see what obligations the British Government are on their part willing to assume.

The undersigned avails himself of this occasion, etc.

(Signed) VON JAGOW.

Dated Foreign Office, Berlin, February 28, 1915.

GERARD.

¹ Apparent omission.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, March 2, 1915.

SIR: With reference to my telegram No. 1719¹ of the 1st instant, I have the honor to inclose to you herewith a copy in translation of a Note Verbale received from the Imperial Foreign Office, dated February 28, 1915, relative to the extent of the war area proclaimed by the German Admiralty. I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

NOTE VERBALE.

With reference to its Note Verbale of the 4th instant,² the Foreign Office has the honor to inform the Embassy of the United States of America, in order to avoid any doubts as to the northward extent of the war area defined in the proclamation of the Chief of the Admiralty Staff of the same day, that the waters surrounding the Orkneys and the Shetlands belong to the war area, but that navigation on both sides of the Faroe Isles is not endangered.

The Foreign Office begs the Embassy of the United States of America to be good enough to inform its Government of the above by cable and to notify the Governments of Great Britain, Japan, and Servia accordingly.

BERLIN, *February 28, 1915.*

To the EMBASSY OF THE
UNITED STATES OF AMERICA.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, March 15, 1915.

Following is the full text of a memorandum dated March 13, which Grey handed me to-day:

On the 22d of February last I received a communication from Your Excellency of the identic note addressed to His Majesty's Government and to Germany, respecting an agreement on certain points

¹ Not printed. Substance of inclosure herewith.

² See pp. 24-27.

as to the conduct of the war at sea. The reply of the German Government to this note has been published and it is not understood from the reply that the German Government are prepared to abandon the practice of sinking British merchant vessels by submarines, and it is evident from their reply that they will not abandon the use of mines for offensive purposes on the high seas as contrasted with the use of mines for defensive purposes only within cannon range of their own harbors as suggested by the Government of the United States. This being so, it might appear unnecessary for the British Government to make any further reply than to take note of the German answer. We desire, however, to take the opportunity of making a fuller statement of the whole position and of our feeling with regard to it. We recognize with sympathy the desire of the Government of the United States to see the European war conducted in accordance with the previously recognized rules of international law and the dictates of humanity. It is thus that the British forces have conducted the war, and we are not aware that these forces, either naval or military, can have laid to their charge any improper proceedings, either in the conduct of hostilities or in the treatment of prisoners or wounded. On the German side it has been very different.

1. The treatment of civilian inhabitants in Belgium and the north of France has been made public by the Belgian and French Governments and by those who have had experience of it at first hand. Modern history affords no precedent for the sufferings that have been inflicted on the defenseless and noncombatant population in the territory that has been in German military occupation. Even the food of the population was confiscated until in Belgium an International Commission, largely influenced by American generosity and conducted under American auspices, came to the relief of the population and secured from the German Government a promise to spare what food was still left in the country though the Germans still continue to make levies in money upon the defenseless population for the support of the German Army.

2. We have from time to time received most terrible accounts of the barbarous treatment to which British officers and soldiers have been exposed after they have been taken prisoner while being conveyed to German prison camps; one or two instances have already been given to the United States Government founded upon authentic and first-hand evidence which is beyond doubt. Some evidence has been received of the hardships to which British prisoners of war are subjected in the prison camps contrasting, we believe, most unfavorably with the treatment of German prisoners in this country. We have proposed, with the consent of the United States Government, that a commission of United States officers should be permitted in each country to inspect the treatment of prisoners of war. The United States Government have been unable to obtain any reply from the German Government to this proposal and we remain in continuing anxiety and apprehension as to the treatment of British prisoners of war in Germany.

3. At the very outset of the war a German mine layer was discovered laying a mine field on the high seas. Further mine fields have been laid from time to time without warning and so far as we know are still being laid on the high seas, and many neutral as well as British vessels have been sunk by them.

4. At various times during the war German submarines have stopped and sunk British merchant vessels, thus making the sinking of merchant vessels a general practice, though it was admitted previously, if at all, only as an exception, the general rule to which the British Government have adhered being that merchant vessels, if captured, must be taken before a prize court. In one case already quoted in a note to the United States Government, a neutral vessel carrying foodstuffs to an unfortified town in Great Britain has been sunk. Another case is now reported in which a German armed cruiser has sunk an American vessel, the *William P. Frye*, carrying a cargo of wheat from Seattle to Queenstown. In both cases the cargoes were presumably destined for the civil population. Even the cargoes in such circumstances should not have been condemned without the decision of a prize court, much less should the vessels have been sunk. It is to be noted that both these cases occurred before the detention by the British authorities of the *Wilhelmina* and her cargo of foodstuffs which the German Government allege is the justification for their own action. The Germans have announced their intention of sinking British merchant vessels by torpedo without notice and without any provision for the safety of the crew. They have already carried out this intention in the case of neutral as well as of British vessels, and a number of noncombatant and innocent lives on British vessels, unarmed and defenseless, have been destroyed in this way.

5. Unfortified, open, and defenseless towns, such as Scarborough, Yarmouth, and Whitby, have been deliberately and wantonly bombarded by German ships of war, causing in some cases considerable loss of civilian life, including women and children.

6. German aircraft have dropped bombs on the east coast of England where there were no military or strategic points to be attacked. On the other hand, I am aware of but two criticisms that have been made on British action in all these respects: (1) It is said that the British naval authorities also have laid some anchored mines on the high seas. They have done so, but the mines were anchored and so constructed that they would be harmless if they went adrift, and no mines whatever were laid by the British naval authorities till many weeks after the Germans had made a regular practice of laying mines on the high seas. (2) It is said that the British Government have departed from the view of international law which they had previously maintained that foodstuffs destined for the civil population should never be interfered with, this charge being founded on the submission to a prize court of the cargo of the *Wilhelmina*. The special considerations affecting this cargo have already been presented in a memorandum to the United States Government, and I need not repeat them here. Inasmuch as the stoppage of all foodstuffs is an

admitted consequence of blockade, it is obvious that there can be no universal rule based on considerations of morality and humanity which is contrary to this practice. The right to stop foodstuffs destined for the civil population must therefore in any case be admitted if an effective "cordon" controlling intercourse with the enemy is drawn, announced, and maintained. Moreover, independently of rights arising from belligerent action in the nature of blockade, some other nations, differing from the opinion of the Governments of the United States and Great Britain, have held that to stop the food of the civil population is a natural and legitimate method of bringing pressure to bear on an enemy country, as it is upon the defense of a besieged town. It is also upheld on the authority of both Prince Bismarck and Count Caprivi, and therefore presumably is not repugnant to German morality. The following are the quotations from Prince Bismarck and Count Caprivi on this point. Prince Bismarck, in answering, in 1885, an application from the Kiel Chamber of Commerce for a statement of the view of the German Government on the question of the right to declare as contraband foodstuffs that were not intended for military forces said: "I reply to the chamber of commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity which entails evil consequences, not only on the combatants but also on neutrals. These evils may easily be increased by the interference of a neutral power with the way in which a third carries on the war to the disadvantage of the subjects of the interfering power, and by this means German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy, and is a justifiable step in war if impartially enforced against all neutral ships." Count Caprivi, during a discussion in the German Reichstag on the 4th of March, 1892, on the subject of the importance of international protection for private property at sea, made the following statements: "A country may be dependent for her food or for her raw products upon her trade. In fact, it may be absolutely necessary to destroy the enemy's trade." * * * "The private introduction of provisions into Paris was prohibited during the siege, and in the same way a nation would be justified in preventing the import of food and raw produce." The Government of Great Britain have frankly declared, in concert with the Government of France, their intention to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves stopping supplies going to or from Germany for this end. The British fleet has instituted a blockade, effectively controlling by cruiser "cordon" all passage to and from Germany by sea. The difference between the two policies is, however, that while our object is the same as that of Germany, we propose to attain it without sacrificing neutral ships or noncombatant lives or inflicting upon neutrals the damage that must

be entailed when a vessel and its cargo are sunk without notice, examination, or trial. I must emphasize again that this measure is a natural and necessary consequence of the unprecedented methods, repugnant to all law and morality, which have been described above, which Germany began to adopt at the very outset of the war, and the effects of which have been constantly accumulating.

PAGE.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, May 9, 1915.

Ambassador Gerard transmits to the Department the following statement, which he says was received at 5.30 to-day from the German Foreign Office, relative to attacks made by mistake on neutral vessels of commerce by German submarines:

First. Imperial German Government has naturally no intention of causing to be attacked by submarines or air craft such neutral ships of commerce in the zone of naval warfare, more definitely described in the notice of the German Admiralty staff of February 4 last, as have been guilty of no hostile act; on the contrary, the most definite instructions have repeatedly been issued to German war vessels to avoid attacks on such ships under all circumstances. Even when such ships have contraband of war on board, they are dealt with by submarines solely according to the rules of international law applying to prize warfare.

Two. Should a neutral ship, nevertheless, come to harm through German submarines or air craft on account of an unfortunate (* * *)¹ in the above-mentioned zone of naval warfare, the German Government will unreservedly recognize its responsibility therefor. In such a case it will express its regrets and afford damages without first instituting a prize court action.

Three. It is the custom of the German Government as soon as the sinking of a neutral ship in the above-mentioned zone of naval warfare is ascribed to German war vessels to institute an immediate investigation into the cause. If grounds appear thereby to be given for assuming such a hypothesis, the German Navy places itself in communication with the interested neutral government, so that the latter may also institute an investigation. If the German Government is thereby convinced that the ship has been destroyed by German war vessels, it will not delay in carrying out the provisions of paragraph two above. In case the German Government, contrary to the viewpoint of the neutral government, is not convinced by the

¹ Apparent omission.

result of the investigation, the German Government has already on several occasions declared itself ready to allow the question to be decided by an international investigation commission according to chapter three of The Hague Convention of October 18, 1907, for the peaceful solution of international disputes.

GERARD.

The Secretary of State to Ambassador Gerard.

DEPARTMENT OF STATE,
Washington, May 13, 1915.

Please call on the Minister of Foreign Affairs and after reading to him this communication leave with him a copy.

In view of recent acts of the German authorities in violation of American rights on the high seas which culminated in the torpedoing and sinking of the British steamship *Lusitania* on May 7, 1915, by which over 100 American citizens lost their lives, it is clearly wise and desirable that the Government of the United States and the Imperial German Government should come to a clear and full understanding as to the grave situation which has resulted.

The sinking of the British passenger steamer *Falaba* by a German submarine on March 28, through which Leon C. Thrasher, an American citizen, was drowned; the attack on April 28 on the American vessel *Cushing* by a German aeroplane; the torpedoing on May 1 of the American vessel *Gulflight* by a German submarine, as a result of which two or more American citizens met their death; and, finally, the torpedoing and sinking of the steamship *Lusitania*, constitute a series of events which the Government of the United States has observed with growing concern, distress, and amazement.

Recalling the humane and enlightened attitude hitherto assumed by the Imperial German Government in matters of international right, and particularly with regard to the freedom of the seas; having learned to recognize the German views and the German influence in the field of international obligation as always engaged upon the side of justice and humanity; and having understood the instructions of the Imperial German Government to its naval commanders to be upon the same plane of humane action prescribed by the naval codes of other nations, the Government of the United States was loath to believe—it cannot now bring itself to believe—that these acts, so absolutely contrary to the rules, the practices, and the spirit of modern warfare, could have the countenance or sanction of that great

Government. It feels it to be its duty, therefore, to address the Imperial German Government concerning them with the utmost frankness and in the earnest hope that it is not mistaken in expecting action on the part of the Imperial German Government which will correct the unfortunate impressions which have been created and vindicate once more the position of that Government with regard to the sacred freedom of the seas.

The Government of the United States has been apprised that the Imperial German Government considered themselves to be obliged by the extraordinary circumstances of the present war and the measures adopted by their adversaries in seeking to cut Germany off from all commerce, to adopt methods of retaliation which go much beyond the ordinary methods of warfare at sea, in the proclamation of a war zone from which they have warned neutral ships to keep away. This Government has already taken occasion to inform the Imperial German Government that it cannot admit the adoption of such measures or such a warning of danger to operate as in any degree an abbreviation of the rights of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality; and that it must hold the Imperial German Government to a strict accountability for any infringement of those rights, intentional or incidental. It does not understand the Imperial German Government to question those rights. It assumes, on the contrary, that the Imperial Government accept, as of course, the rule that the lives of noncombatants, whether they be of neutral citizenship or citizens of one of the nations at war, cannot lawfully or rightfully be put in jeopardy by the capture or destruction of an unarmed merchantman, and recognize also, as all other nations do, the obligation to take the usual precaution of visit and search to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag.

The Government of the United States, therefore, desires to call the attention of the Imperial German Government with the utmost earnestness to the fact that the objection to their present method of attack against the trade of their enemies lies in the practical impossibility of employing submarines in the destruction of commerce without disregarding those rules of fairness, reason, justice, and humanity which all modern opinion regards as imperative. It is practically impossible for the officers of a submarine to visit a merchantman at sea and examine her papers and cargo. It is practically impossible

for them to make a prize of her; and, if they cannot put a prize crew on board of her, they cannot sink her without leaving her crew and all on board of her to the mercy of the sea in her small boats. These facts it is understood the Imperial German Government frankly admit. We are informed that in the instances of which we have spoken time enough for even that poor measure of safety was not given, and in at least two of the cases cited not so much as a warning was received. Manifestly submarines cannot be used against merchantmen, as the last few weeks have shown, without an inevitable violation of many sacred principles of justice and humanity.

American citizens act within their indisputable rights in taking their ships and in traveling wherever their legitimate business calls them upon the high seas, and exercise those rights in what should be the well-justified confidence that their lives will not be endangered by acts done in clear violation of universally acknowledged international obligations, and certainly in the confidence that their own Government will sustain them in the exercise of their rights.

There was recently published in the newspapers of the United States, I regret to inform the Imperial German Government, a formal warning, purporting to come from the Imperial German Embassy at Washington, addressed to the people of the United States, and stating, in effect, that any citizen of the United States who exercised his right of free travel upon the seas would do so at his peril if his journey should take him within the zone of waters within which the Imperial German Navy was using submarines against the commerce of Great Britain and France, notwithstanding the respectful but very earnest protest of his Government, the Government of the United States. I do not refer to this for the purpose of calling the attention of the Imperial German Government at this time to the surprising irregularity of a communication from the Imperial German Embassy at Washington addressed to the people of the United States through the newspapers, but only for the purpose of pointing out that no warning that an unlawful and inhumane act will be committed can possibly be accepted as an excuse or palliation for that act or as an abatement of the responsibility for its commission.

Long acquainted as this Government has been with the character of the Imperial German Government and with the high principles of equity by which they have in the past been actuated and guided, the Government of the United States cannot believe that the commanders of the vessels which committed these acts of lawlessness did so except under a misapprehension of the orders issued by the Imperial Ger-

man naval authorities. It takes it for granted that, at least within the practical possibilities of every such case, the commanders even of submarines were expected to do nothing that would involve the lives of noncombatants or the safety of neutral ships, even at the cost of failing of their object of capture or destruction. It confidently expects, therefore, that the Imperial German Government will disavow the acts of which the Government of the United States complains, that they will make reparation so far as reparation is possible for injuries which are without measure, and that they will take immediate steps to prevent the recurrence of anything so obviously subversive of the principles of warfare for which the Imperial German Government have in the past so wisely and so firmly contended.

The Government and people of the United States look to the Imperial German Government for just, prompt, and enlightened action in this vital matter with the greater confidence because the United States and Germany are bound together not only by special ties of friendship but also by the explicit stipulations of the treaty of 1828 between the United States and the Kingdom of Prussia.

Expressions of regret and offers of reparation in case of the destruction of neutral ships sunk by mistake, while they may satisfy international obligations, if no loss of life results, cannot justify or excuse a practice, the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

The Imperial German Government will not expect the Government of the United States to omit any word or any act necessary to the performance of its sacred duty of maintaining the rights of the United States and its citizens and of safeguarding their free exercise and enjoyment.

BRYAN.

The German Minister for Foreign Affairs to Ambassador Gerard.

[Translation.]

— *Berlin, May 28, 1915.*

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated the 15th instant, on the subject of the impairment of many American interests by the German submarine war.

The Imperial Government has subjected the statements of the

Government of the United States to a careful examination and has the lively wish on its part also to contribute in a convincing and friendly manner to clear up any misunderstandings which may have entered into the relations of the two Governments through the events mentioned by the American Government.

With regard firstly to the cases of the American steamers *Cushing* and *Gulflight*, the American Embassy has already been informed that it is far from the German Government to have any intention of ordering attacks by submarines or flyers on neutral vessels in the zone which have not been guilty of any hostile act; on the contrary, the most explicit instructions have been repeatedly given the German armed forces to avoid attacking such vessels. If neutral vessels have come to grief through the German submarine war during the past few months by mistake, it is a question of isolated and exceptional cases which are traceable to the misuse of flags by the British Government in connection with carelessness or suspicious actions on the part of the captains of the vessels. In all cases where a neutral vessel through no fault of its own has come to grief through the German submarine or flyers according to the facts as ascertained by the German Government, this Government has expressed its regret at the unfortunate occurrence and promised indemnification where the facts justified it. The German Government will treat the cases of the American steamers *Cushing* and *Gulflight* according to the same principles. An investigation of these cases is in progress. Its results will be communicated to the Embassy shortly. The investigation might, if thought desirable, be supplemented by an International Commission of Inquiry, pursuant to Title Three of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

In the case of the sinking of the English steamer *Falaba*, the commander of the German submarine had the intention of allowing passengers and crew ample opportunity to save themselves.

It was not until the captain disregarded the order to lay to and took to flight, sending up rocket signals for help, that the German commander ordered the crew and passengers by signals and megaphone to leave the ship within ten minutes. As a matter of fact he allowed them twenty-three minutes and did not fire the torpedo until suspicious steamers were hurrying to the aid of the *Falaba*.

With regard to the loss of life when the British passenger steamer *Lusitania* was sunk, the German Government has already expressed its deep regret to the neutral Governments concerned that nationals of those countries lost their lives on that occasion. The Imperial Government must state for the rest the impression that certain important facts most directly connected with the sinking of the *Lusitania* may have escaped the attention of the Government of the United States. It therefore considers it necessary in the interest of the clear and full understanding aimed at by either Government primarily to convince itself that the reports of the facts which are before the two Governments are complete and in agreement.

The Government of the United States proceeds on the assumption that the *Lusitania* is to be considered as an ordinary unarmed merchant vessel. The Imperial Government begs in this connection to point out that the *Lusitania* was one of the largest and fastest English commerce steamers, constructed with Government funds as auxiliary cruisers, and is expressly included in the navy list published by British Admiralty. It is moreover known to the Imperial Government from reliable information furnished by its officials and neutral passengers that for some time practically all the more valuable English merchant vessels have been provided with guns, ammunition, and other weapons, and reinforced with a crew specially practiced in manning guns. According to reports at hand here, the *Lusitania* when she left New York undoubtedly had guns on board which were mounted under decks and masked.

The Imperial Government furthermore has the honor to direct the particular attention of the American Government to the fact that the British Admiralty by a secret instruction of February of this year advised the British merchant marine not only to seek protection behind neutral flags and markings, but even when so disguised to attack German submarines by ramming them. High rewards have been offered by the British Government as a special incentive for the destruction of the submarines by merchant vessels, and such rewards have already been paid out. In view of these facts, which are satisfactorily known to it, the Imperial Government is unable to consider English merchant vessels any longer as "undefended territory" in the zone of maritime war designated by the Admiralty Staff of the Imperial German Navy, the German commanders are consequently no longer in a position to observe the rules of capture otherwise usual and with which they invariably complied before this. Lastly, the Imperial Government must specially point out that on her last trip the *Lusitania*, as on earlier occasions, had Canadian troops and munitions on board, including no less than 5,400 cases of ammunition destined for the destruction of brave German soldiers who are fulfilling with self-sacrifice and devotion their duty in the service of the Fatherland. The German Government believes that it acts in just self-defense when it seeks to protect the lives of its soldiers by destroying ammunition destined for the enemy with the means of war at its command. The English steamship company must have been aware of the dangers to which passengers on board the *Lusitania* were exposed under the circumstances. In taking them on board in spite of this the company quite deliberately tried to use the lives of American citizens as protection for the ammunition carried, and violated the clear provisions of American laws which expressly prohibit, and provide punishment for, the carrying of passengers on ships which have explosives on board. The company thereby wantonly caused the death of so many passengers. According to the express report of the submarine commander concerned, which is further confirmed by all other reports, there can be no doubt that the rapid sinking of the *Lusitania* was primarily due to the explosion

of the cargo of ammunition caused by the torpedo. Otherwise, in all human probability, the passengers of the *Lusitania* would have been saved.

The Imperial Government holds the facts recited above to be of sufficient importance to recommend them to a careful examination by the American Government. The Imperial Government begs to reserve a final statement of its position with regard to the demands made in connection with the sinking of the *Lusitania* until a reply is received from the American Government, and believes that it should recall here that it took note with satisfaction of the proposals of good offices submitted by the American Government in Berlin and London with a view to paving the way for a *modus vivendi* for the conduct of maritime war between Germany and Great Britain. The Imperial Government furnished at that time ample evidence of its good will by its willingness to consider these proposals. The realization of these proposals failed, as is known, on account of their rejection by the Government of Great Britain.

The undersigned requests His Excellency, the Ambassador, to bring the above to the knowledge of the American Government and avails himself of the opportunity to renew, etc.

VON JAGOW.

The German Minister for Foreign Affairs to Ambassador Gerard.

[Translation.]

Berlin, June 1, 1915.

With reference to the note of May 28, the undersigned has the honor to inform His Excellency, the Ambassador of the United States of America, Mr. James W. Gerard, that the examination undertaken on the part of the German Government concerning the cases of the American steamers *Gulflight* and *Cushing* has led to the following conclusions:

In regard to the attack on the steamer *Gulflight*, the commander of a German submarine saw on the afternoon of May 1, in the vicinity of the Scilly Islands, a large merchant steamer coming toward him, which was accompanied by two small vessels. These later took up such a position in relation to the steamer that they formed a regulation safeguard against submarines; one of them, moreover, had a wireless apparatus, which is not as a rule usual with small vessels. From this it was evidently a case of English convoy vessels. Since such vessels are regularly armed, the submarine could not approach the steamer on the surface of the water without running the danger of destruction. On the other hand, it was to be assumed that the steamer was of considerable value to the British Government since it was so particularly guarded. The commander could see no neutral markings on it of any kind—that is, distinctive marks painted on

the freeboard, recognizable at a distance, such as are now usual on neutral ships in the English zone of naval warfare. In consequence, he arrived at the conclusion from all the circumstances that he had to deal with an English steamer and attacked submerged. The torpedo came in the immediate neighborhood of one of the convoy ships, which at once rapidly approached the point of firing, so that the submarine was forced to go to a great depth to avoid being rammed; the conclusion of the commander that an English convoy ship was concerned was in this way confirmed. That the attacked steamer carried the American flag was first observed at the moment of firing the shot. The fact that the steamship was pursuing a course which led neither to nor from America was a further reason why it did not occur to the commander of the submarine that he had to deal with an American steamship.

Upon scrutiny of the time and place of the occurrence described, the German Government has become convinced that the attacked steamship was actually the American steamship *Gulflight*. According to the attendant circumstances there can be no doubt that the attack is not to be attributed to the fault of the commander, but to an unfortunate accident. The German Government expresses its regrets to the Government of the United States concerning this incident and declares itself ready to furnish full recompense for the damage thereby sustained by American citizens. It begs to leave it to the discretion of the American Government to present a statement of this damage, or, if doubts may arise over individual points, to designate an expert, who would have to determine, together with a German expert, the amount of the damage.

It has not yet been possible by means of an inquiry fully to clear up the case of the American steamship *Cushing*. According to the official reports available, only one merchant steamship was attacked by a German flying machine in the vicinity of Nordhind Lightship. The German aviator considered the vessel as hostile, and was forced to consider it as such because it carried no flag and also because of no further recognizable neutral markings. The attack, which was carried into effect by means of four bombs, was of course not aimed at any American ship.

That, however, the ship attacked was the American steamer *Cushing* is not impossible, considering the time and place of the occurrence; nevertheless the German Government accordingly requests the American Government to communicate to it the material which has been submitted for judgment, in order that, with this as a basis, it can take a further position in regard to the matter.

While the undersigned leaves it to the Ambassador to bring the foregoing to the immediate attention of his Government, he takes this opportunity, etc.

VON JAGOW.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 2, 1915.

Mr. Bryan informs Mr. Gerard that evidence supplied thus far regarding *S. S. Nebraskan*, an American vessel leaving Liverpool, indicates that she was hit by torpedo May 25th, in the evening. He asks Mr. Gerard whether report of this attack has been received by German Government.

The Secretary of State ad interim to Ambassador Gerard.

DEPARTMENT OF STATE,
Washington, June 9, 1915.

You are instructed to deliver textually the following note to the Minister of Foreign Affairs:

In compliance with Your Excellency's request I did not fail to transmit to my Government immediately upon their receipt your note of May 28 in reply to my note of May 15, and your supplementary note of June 1, setting forth the conclusions so far as reached by the Imperial German Government concerning the attacks on the American steamers *Cushing* and *Gulflight*. I am now instructed by my Government to communicate the following in reply:

The Government of the United States notes with gratification the full recognition by the Imperial German Government, in discussing the cases of the *Cushing* and the *Gulflight*, of the principle of the freedom of all parts of the open sea to neutral ships and the frank willingness of the Imperial German Government to acknowledge and meet its liability where the fact of attack upon neutral ships "which have not been guilty of any hostile act" by German air craft or vessels of war is satisfactorily established; and the Government of the United States will in due course lay before the Imperial German Government, as it requests, full information concerning the attack on the steamer *Cushing*.

With regard to the sinking of the steamer *Falaba*, by which an American citizen lost his life, the Government of the United States is surprised to find the Imperial German Government contending that an effort on the part of a merchantman to escape capture and secure assistance alters the obligation of the officer seeking to make the cap-

ture in respect of the safety of the lives of those on board the merchantman, although the vessel has ceased her attempt to escape when torpedoed. These are not new circumstances. They have been in the minds of statesmen and of international jurists throughout the development of naval warfare, and the Government of the United States does not understand that they have ever been held to alter the principles of humanity upon which it has insisted. Nothing but actual forcible resistance or continued efforts to escape by flight when ordered to stop for the purpose of visit on the part of the merchantman has ever been held to forfeit the lives of her passengers or crew. The Government of the United States, however, does not understand that the Imperial German Government is seeking in this case to relieve itself of liability, but only intends to set forth the circumstances which led the commander of the submarine to allow himself to be hurried into the course which he took.

Your Excellency's note, in discussing the loss of American lives resulting from the sinking of the steamship *Lusitania*, adverts at some length to certain information which the Imperial German Government has received with regard to the character and outfit of that vessel, and Your Excellency expresses the fear that this information may not have been brought to the attention of the Government of the United States. It is stated in the note that the *Lusitania* was undoubtedly equipped with masked guns, supplied with trained gunners and special ammunition, transporting troops from Canada, carrying a cargo not permitted under the laws of the United States to a vessel also carrying passengers, and serving, in virtual effect, as an auxiliary to the naval forces of Great Britain. Fortunately, these are matters concerning which the Government of the United States is in a position to give the Imperial German Government official information. Of the facts alleged in Your Excellency's note, if true, the Government of the United States would have been bound to take official cognizance in performing its recognized duty as a neutral power and in enforcing its national laws. It was its duty to see to it that the *Lusitania* was not armed for offensive action, that she was not serving as a transport, that she did not carry a cargo prohibited by the statutes of the United States, and that, if in fact she was a naval vessel of Great Britain, she should not receive clearance as a merchantman; and it performed that duty and enforced its statutes with scrupulous vigilance through its regularly constituted officials. It is able, therefore, to assure the Imperial German Government that it has been misinformed. If the Imperial German Government should

deem itself to be in possession of convincing evidence that the officials of the Government of the United States did not perform these duties with thoroughness, the Government of the United States sincerely hopes that it will submit that evidence for consideration.

Whatever may be the contentions of the Imperial German Government regarding the carriage of contraband of war on board the *Lusitania* or regarding the explosion of that material by the torpedo, it need only be said that in the view of this Government these contentions are irrelevant to the question of the legality of the methods used by the German naval authorities in sinking the vessel.

But the sinking of passenger ships involves principles of humanity which throw into the background any special circumstances of detail that may be thought to affect the cases, principles which lift it, as the Imperial German Government will no doubt be quick to recognize and acknowledge, out of the class of ordinary subjects of diplomatic discussion or of international controversy. Whatever be the other facts regarding the *Lusitania*, the principal fact is that a great steamer, primarily and chiefly a conveyance for passengers, and carrying more than a thousand souls who had no part or lot in the conduct of the war, was torpedoed and sunk without so much as a challenge or a warning, and that men, women, and children were sent to their death in circumstances unparalleled in modern warfare. The fact that more than one hundred American citizens were among those who perished made it the duty of the Government of the United States to speak of these things and once more, with solemn emphasis, to call the attention of the Imperial German Government to the grave responsibility which the Government of the United States conceives that it has incurred in this tragic occurrence, and to the indisputable principle upon which that responsibility rests. The Government of the United States is contending for something much greater than mere rights of property or privileges of commerce. It is contending for nothing less high and sacred than the rights of humanity, which every Government honors itself in respecting and which no Government is justified in resigning on behalf of those under its care and authority. Only her actual resistance to capture or refusal to stop when ordered to do so for the purpose of visit could have afforded the commander of the submarine any justification for so much as putting the lives of those on board the ship in jeopardy. This principle the Government of the United States understands the explicit instructions issued on August 3, 1914, by the Imperial German Admiralty to its commanders at sea to have recognized and embodied, as

do the naval codes of all other nations, and upon it every traveler and seaman had a right to depend. It is upon this principle of humanity as well as upon the law founded upon this principle that the United States must stand.

The Government of the United States is happy to observe that Your Excellency's note closes with the intimation that the Imperial German Government is willing, now as before, to accept the good offices of the United States in an attempt to come to an understanding with the Government of Great Britain by which the character and conditions of the war upon the sea may be changed. The Government of the United States would consider it a privilege thus to serve its friends and the world. It stands ready at any time to convey to either Government any intimation or suggestion the other may be willing to have it convey and cordially invites the Imperial German Government to make use of its services in this way at its convenience. The whole world is concerned in anything that may bring about even a partial accommodation of interests or in any way mitigate the terrors of the present distressing conflict.

In the meantime, whatever arrangement may happily be made between the parties to the war, and whatever may in the opinion of the Imperial German Government have been the provocation or the circumstantial justification for the past acts of its commanders at sea, the Government of the United States confidently looks to see the justice and humanity of the Government of Germany vindicated in all cases where Americans have been wronged or their rights as neutrals invaded.

The Government of the United States therefore very earnestly and very solemnly renews the representations of its note transmitted to the Imperial German Government on the 15th of May, and relies in these representations upon the principles of humanity, the universally recognized understandings of international law, and the ancient friendship of the German nation.

The Government of the United States cannot admit that the proclamation of a war zone from which neutral ships have been warned to keep away may be made to operate as in any degree an abbreviation of the rights either of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality. It does not understand the Imperial German Government to question those rights. It understands it, also, to accept as established beyond question the principle that the lives of noncombatants cannot lawfully or rightfully be put in jeopardy

by the capture or destruction of an unresisting merchantman, and to recognize the obligation to take sufficient precaution to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag. The Government of the United States therefore deems it reasonable to expect that the Imperial German Government will adopt the measures necessary to put these principles into practice in respect of the safeguarding of American lives and American ships, and asks for assurances that this will be done.

ROBERT LANSING,
Secretary of State ad Interim.

The German Minister for Foreign Affairs to Ambassador Gerard.

FOREIGN OFFICE,
Berlin, July 8, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated the 10th ultimo, Foreign Office No. 3814, on the subject of the impairment of American interests by the German submarine war:

The Imperial Government has learned with satisfaction from the note how earnestly the Government of the United States is concerned in seeing the principles of humanity realized in the present war. Also, this appeal meets with full sympathy in Germany, and the Imperial Government is quite willing to permit its statements and decisions in the case under consideration to be governed by the principles of humanity just as it has done always.

The Imperial Government welcomed it with gratitude when the American Government in its note of May 15, 1915, itself recalled that Germany had always permitted itself to be governed by the principles of progress and humanity in dealing with the law of maritime war. Since the time when Frederick the Great negotiated with John Adams, Benjamin Franklin, and Thomas Jefferson the treaty of friendship and commerce of September 10, 1785, between Prussia and the Republic of the West, German and American statesmen have in fact always stood together in the struggle for the freedom of the seas and for the protection of peaceable trade. In the international proceedings which have since been conducted for the regulation of the right of maritime war Germany and America have jointly advo-

cated progressive principles, especially the abolishment of the right of capture at sea and the protection of the interests of neutrals. Even at the beginning of the present war the German Government immediately declared its willingness, in response to the proposal of the American Government, to ratify the Declaration of London and thereby to subject itself, in the use of its naval forces, to all the restrictions provided therein in favor of neutrals. Germany has likewise been always tenacious of the principle that war should be conducted against the armed and organized forces of the enemy country, but that the civilian population of the enemy must be spared as far as possible from the measures of war. The Imperial Government cherishes the definite hope that some way will be found when peace is concluded, or perhaps earlier, to regulate the law of maritime war in a manner guaranteeing the freedom of the seas, and will welcome it with gratitude and satisfaction if it can work hand in hand with the American Government on that occasion.

If in the present war the principles which should be the ideal of the future have been traversed more and more the longer its duration, the German Government has no guilt therein.

It is known to the American Government how Germany's adversaries, by completely paralyzing peaceable traffic between Germany and the neutral countries, have aimed from the very beginning, and with increasing lack of consideration, at the destruction not so much of the armed forces as the life of the German nation, repudiating in so doing all the rules of international law and disregarding all the rights of neutrals. On November 3, 1914, England declared the North Sea to be a war area, and by planting poorly anchored mines and the stoppage and capture of vessels made passage extremely dangerous and difficult for neutral shipping, so that it is actually blockading neutral coasts and ports, contrary to all international law. Long before the beginning of the submarine war England practically completely intercepted legitimate neutral navigation to Germany also. Thus Germany was driven to submarine war on trade. On November 16, 1914, the English Prime Minister declared in the House of Commons that it was one of England's principal tasks to prevent food for the German population from reaching Germany by way of neutral ports. Since March 1 of this year England has been taking from neutral ships, without further formality, all merchandise proceeding to Germany, as well as all merchandise coming from Germany, even when neutral property. Just as was the case with the Boers, the German people is now to be given the choice of

perishing from starvation, with its women and children, or of relinquishing its independence.

While our enemies thus loudly and openly have proclaimed war without mercy until our utter destruction, we are conducting war in self-defense for our national existence and for the sake of peace of assured permanency. We have been obliged to adopt submarine warfare to meet the declared intentions of our enemies and the method of warfare adopted by them in contravention of international law.

With all its efforts in principle to protect neutral life and property from damage as much as possible, the German Government recognized unreservedly in its memorandum of February 4 that the interests of neutrals might suffer from submarine warfare. However, the American Government will also understand and appreciate that in the fight for existence which has been forced upon Germany by its adversaries and announced by them, it is the sacred duty of the Imperial Government to do all within its power to protect and to save the lives of German subjects. If the Imperial Government were derelict in these, its duties, it would be guilty before God and history of the violation of those principles of the highest humanity which are the foundation of every national existence.

The case of the *Lusitania* shows with horrible clearness to what jeopardizing of human lives the manner of conducting war employed by our adversaries leads. In most direct contradiction of international law, all distinctions between merchantmen and war vessels have been obliterated by the order to British merchantmen to arm themselves and to ram submarines and the promise of rewards therefor; and neutrals who use merchantmen as travelers have thereby been exposed in an increasing degree to all the dangers of war. If the commander of the German submarine which destroyed the *Lusitania* had caused the crew and travelers to put out in boats before firing the torpedo this would have meant the sure destruction of his own vessel. After the experiences in the sinking of much smaller and less seaworthy vessels, it was to be expected that a mighty ship like the *Lusitania* would remain above water long enough, even after the torpedoing, to permit the passengers to enter the ship's boats. Circumstances of a very peculiar kind, especially the presence on board of large quantities of highly explosive materials, defeated this expectation. In addition, it may be pointed out that if the *Lusitania* had been spared thousands of cases of ammunition would have been sent to Germany's enemies and thereby thousands of German mothers and children robbed of their supporters.

In the spirit of friendship with which the German nation has been imbued toward the Union and its inhabitants since the earliest days of its existence, the Imperial Government will always be ready to do all it can, during the present war also, to prevent the jeopardizing of the lives of American citizens.

The Imperial Government therefore repeats the assurances that American ships will not be hindered in the prosecution of legitimate shipping, and the lives of American citizens on neutral vessels shall not be placed in jeopardy.

In order to exclude any unforeseen dangers to American passenger steamers, made possible in view of the conduct of maritime war on the part of Germany's adversaries, the German submarines will be instructed to permit the free and safe passage of such passenger steamers when made recognizable by special markings and notified a reasonable time in advance. The Imperial Government, however, confidently hopes that the American Government will assume the guarantee that these vessels have no contraband on board. The details of the arrangements for the unhampered passage of these vessels would have to be agreed upon by the naval authorities of both sides.

In order to furnish adequate facilities for travel across the Atlantic Ocean for American citizens, the German Government submits for consideration a proposal to increase the number of available steamers by installing in the passenger service a reasonable number of neutral steamers, the exact number to be agreed upon, under the American flag under the same conditions as the American steamers above mentioned.

The Imperial Government believes that it can assume that in this manner adequate facilities for travel across the Atlantic Ocean can be afforded American citizens. There would therefore appear to be no compelling necessity for American citizens to travel to Europe in time of war on ships carrying an enemy flag. In particular the Imperial Government is unable to admit that American citizens can protect an enemy ship through the mere fact of their presence on board. Germany merely followed England's example when it declared part of the high seas an area of war. Consequently accidents suffered by neutrals on enemy ships in this area of war cannot well be judged differently from accidents to which neutrals are at all times exposed at the seat of war on land when they betake themselves into dangerous localities in spite of previous warning.

If, however, it should not be possible for the American Govern-

ment to acquire an adequate number of neutral passenger steamers, the Imperial Government is prepared to interpose no objections to the placing under the American flag by the American Government of four enemy passenger steamers for the passenger traffic between America and England. The assurances of "free and safe" passage for American passenger steamers would then be extended to apply under the identical pre-conditions to these formerly hostile passenger ships.

The President of the United States has declared his readiness, in a way deserving of thanks, to communicate and suggest proposals to the Government of Great Britain with particular reference to the alteration of maritime war. The Imperial Government will always be glad to make use of the good offices of the President, and hopes that his efforts in the present case, as well as in the direction of the lofty ideal of the freedom of the seas, will lead to an understanding.

The undersigned requests the Ambassador to bring the above to the knowledge of the American Government, and avails himself of the opportunity to renew to His Excellency the assurance of his most distinguished consideration.

VON JAGOW.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, July 12, 1915.

Following memorandum just received from the Foreign Office:

Memorandum relative to the damaging of the American steamer *Nebraskan* by a German submarine:

The German Government received from newspaper reports the intelligence that the American steamer *Nebraskan* had been damaged by a mine or torpedo on the southwest coast of Ireland. It therefore started a thorough investigation of the case without delay, and from the result of the investigation it has become convinced that the damage to the *Nebraskan* was caused by an attack by a submarine.

On the evening of May 25 last the submarine met a steamer bound westward without a flag and with no neutral markings on her free-board about thirty-five nautical miles west of Fastnet Rock; no appliance of any kind for the illumination of the flag or markings was to be seen. In the twilight, which had already set in, the name of the steamer was not visible from the submarine. Since the commander of the submarine was obliged to assume, from his wide experience in the area of maritime war, that only English steamers, and no

neutral steamers, traversed this war area without flag and markings, he attacked the vessel with a torpedo in the conviction that he had an enemy vessel before him. Some time after the shot the commander saw that the vessel had in the meantime hoisted the American flag. As a consequence he of course refrained from any further attack. Since the vessel remained afloat he had no occasion to concern himself further with the boats which had been launched.

It results from this, without a doubt, that attack on the steamer *Nebraskan* was not meant for the American flag; nor is it traceable to any fault on the part of the commander of the German submarine, but is to be considered an unfortunate accident. The German Government expresses its regret at the occurrence to the Government of the United States of America and declares its readiness to make compensation for the damage thereby sustained by American citizens.

As in the case of the steamer *Gulflight*, the German Government begs to suggest that the American Government submit to it a detailed statement of such damage, or if doubt might arise as to certain points, to designate an expert to fix the amount of compensation, acting in conjunction with a German expert.

GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 21, 1915.

You are instructed to deliver textually the following note to the Minister for Foreign Affairs:

The note of the Imperial German Government, dated the 8th of July, 1915, has received the careful consideration of the Government of the United States, and it regrets to be obliged to say that it has found it very unsatisfactory, because it fails to meet the real differences between the two Governments and indicates no way in which the accepted principles of law and humanity may be applied in the grave matter in controversy, but proposes, on the contrary, arrangements for a partial suspension of those principles which virtually set them aside.

The Government of the United States notes with satisfaction that the Imperial German Government recognizes without reservation the validity of the principles insisted on in the several communications which this Government has addressed to the Imperial German Government with regard to its announcement of a war zone and the use of submarines against merchantmen on the high seas—the principle that the high seas are free, that the character and cargo of a merchantman must first be ascertained before she can lawfully be seized or destroyed, and that the lives of noncombatants may in no

case be put in jeopardy unless the vessel resists or seeks to escape after being summoned to submit to examination; for a belligerent act of retaliation is *per se* an act beyond the law, and the defense of an act as retaliatory is an admission that it is illegal.

The Government of the United States is, however, keenly disappointed to find that the Imperial German Government regards itself as in large degree exempt from the obligation to observe these principles, even where neutral vessels are concerned, by what it believes the policy and practice of the Government of Great Britain to be in the present war with regard to neutral commerce. The Imperial German Government will readily understand that the Government of the United States cannot discuss the policy of the Government of Great Britain with regard to neutral trade except with that Government itself, and that it must regard the conduct of other belligerent governments as irrelevant to any discussion with the Imperial German Government of what this Government regards as grave and unjustifiable violations of the rights of American citizens by German naval commanders. Illegal and inhuman acts, however justifiable they may be thought to be against an enemy who is believed to have acted in contravention of law and humanity, are manifestly indefensible when they deprive neutrals of their acknowledged rights, particularly when they violate the right to life itself. If a belligerent cannot retaliate against an enemy without injuring the lives of neutrals, as well as their property, humanity, as well as justice and a due regard for the dignity of neutral powers, should dictate that the practice be discontinued. If persisted in it would in such circumstances constitute an unpardonable offense against the sovereignty of the neutral nation affected. The Government of the United States is not unmindful of the extraordinary conditions created by this war or of the radical alterations of circumstance and method of attack produced by the use of instrumentalities of naval warfare which the nations of the world cannot have had in view when the existing rules of international law were formulated, and it is ready to make every reasonable allowance for these novel and unexpected aspects of war at sea; but it cannot consent to abate any essential or fundamental right of its people because of a mere alteration of circumstance. The rights of neutrals in time of war are based upon principle, not upon expediency, and the principles are immutable. It is the duty and obligation of belligerents to find a way to adapt the new circumstances to them.

The events of the past two months have clearly indicated that it is possible and practicable to conduct such submarine operations as have characterized the activity of the Imperial German Navy within the so-called war zone in substantial accord with the accepted practices of regulated warfare. The whole world has looked with interest and increasing satisfaction at the demonstration of that possibility by German naval commanders. It is manifestly possible, therefore, to lift the whole practice of submarine attack above the criticism which it has aroused and remove the chief causes of offense.

In view of the admission of illegality made by the Imperial Government when it pleaded the right of retaliation in defense of its acts, and in view of the manifest possibility of conforming to the established rules of naval warfare, the Government of the United States cannot believe that the Imperial Government will longer refrain from disavowing the wanton act of its naval commander in sinking the *Lusitania* or from offering reparation for the American lives lost, so far as reparation can be made for a needless destruction of human life by an illegal act.

The Government of the United States, while not indifferent to the friendly spirit in which it is made, cannot accept the suggestion of the Imperial German Government that certain vessels be designated and agreed upon which shall be free on the seas now illegally proscribed. The very agreement would, by implication, subject other vessels to illegal attack and would be a curtailment and therefore an abandonment of the principles for which this Government contends and which in times of calmer counsels every nation would concede as of course.

The Government of the United States and the Imperial German Government are contending for the same great object, have long stood together in urging the very principles, upon which the Government of the United States now so solemnly insists. They are both contending for the freedom of the seas. The Government of the United States will continue to contend for that freedom, from whatever quarter violated, without compromise and at any cost. It invites the practical coöperation of the Imperial German Government at this time when coöperation may accomplish most and this great common object be most strikingly and effectively achieved.

The Imperial German Government expresses the hope that this object may be in some measure accomplished even before the present war ends. It can be. The Government of the United States not only feels obliged to insist upon it, by whomsoever violated or ignored, in the protection of its own citizens, but is also deeply interested in seeing it made practicable between the belligerents themselves, and holds itself ready at any time to act as the common friend who may be privileged to suggest a way.

In the meantime the very value which this Government sets upon the long and unbroken friendship between the people and Government of the United States and the people and Government of the German nation impels it to press very solemnly upon the Imperial German Government the necessity for a scrupulous observance of neutral rights in this critical matter. Friendship itself prompts it to say to the Imperial Government that repetition by the commanders of German naval vessels of acts in contravention of those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly.

LANSING.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 31, 1915.

Ambassador Gerard is directed to obtain and forward to the Department of State a full report of facts relating to the sinking of the American ship *Leelanaw*, together with certified copies of the ship's papers.

The German Ambassador to the Secretary of State.

[Telegram.]

New York, August 24, 1915.

I am instructed by my Government to communicate the following to you:

So far no official information about the sinking of the *Arabic* is available. The Imperial Government trusts that the Government of the United States will not take a definite stand after only hearing the reports coming from one side, which, according to the opinion of my Government, cannot possibly correspond with the facts, but will give the Imperial Government a chance to be heard equally. Although my Government does not doubt the good faith of the witnesses whose statements have been published by the newspapers in Europe my Government thinks that it should be borne in mind that such statements have naturally been made in great excitement which might easily produce a wrong impression. In case Americans should actually have lost their life this would naturally be contrary to the intention of the German Government, who would deeply regret this fact and has instructed me to extend its sincerest sympathy to the Government of the United States.

May I ask you to be good enough to publish the above or to kindly let me know whether you agree to my publishing it?

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, September 1, 1915.

MY DEAR MR. SECRETARY:

With reference to our conversation of this morning I beg to inform you that my instructions concerning our answer to your last *Lusitania* note contain the following passage:

Liners will not be sunk by our submarines without warning and without safety of the lives of noncombatants, provided that the liners do not try to escape or offer resistance.

Although I know that you do not wish to discuss the *Lusitania* question till the *Arabic* incident has been definitely and satisfactorily settled, I desire to inform you of the above because this policy of my Government was decided on before the *Arabic* incident occurred.

I have no objection to your making any use you may please of the above information.

I remain, etc.,

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Cedarhurst, N. Y., September 4, 1915.

MR. SECRETARY OF STATE:

On the 25th of last month an English merchant vessel fired on a German submarine in the Irish Sea without any challenge of any kind.

On the 18th of the same month a German submarine was fired on in Bristol Channel by an English passenger steamer that had been summoned to stop.

By direction of my Government I have the honor to bring those cases to Your Excellency's notice in order again to lay stress on the point that British merchant vessels which attack German submarines of course expose themselves to the danger of destruction; American citizens who travel on such vessels do so on their own responsibility and incur the greatest risk.

Accept, etc.,

J. BERNSTORFF.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, September 7, 1915.

Foreign Office sends me the following report of the sinking of the *Arabic*, with the request that it be brought to the knowledge of the American Government:

On the 19th of August a German submarine stopped the English steamer *Dunsley* about sixty nautical miles south of Kinsale and was on the point of sinking the prize by gun fire after the crew had left

the vessel. At this moment the commander saw a large steamer making directly toward him. This steamer, which, as developed later, was identical with the *Arabic*, was recognized as an enemy vessel, as she did not fly any flag and bore no neutral markings. When she approached she altered her original course, but then again pointed directly toward the submarine. From this the commander became convinced that the steamer had the intention of attacking and ramming him. In order to anticipate this attack he gave orders to have the submarine submerge and fired a torpedo at the steamer. After firing he convinced himself that the people on board were being rescued in fifteen boats.

According to his instructions the commander was not allowed to attack the *Arabic* without warning and without saving lives unless the ship attempted to escape or offered resistance. He was forced to conclude from the attendant circumstances that the *Arabic* planned a violent attack on the submarine. This conclusion was all the more obvious, as he had been fired upon at a great distance in the Irish Sea on August 14—that is, a few days before—by a large passenger steamer apparently belonging to the British Royal Mail Steam Packet Company, which he had neither attacked or stopped.

The German Government most deeply regrets that lives were lost through the action of the commander. It particularly expresses this regret to the Government of the United States on account of the death of American citizens. The German Government is unable, however, to acknowledge any obligation to grant indemnity in the matter, even if the commander should have been mistaken as to the aggressive intentions of the *Arabic*. If it should prove to be the case that it is impossible for the German and the American Government to reach a harmonious opinion on this point, the German Government would be prepared to submit the difference of opinion as being a question of international law to The Hague tribunals, pursuant to Article 38 of The Hague Convention for the Pacific Settlement of International Disputes. In so doing it assumes that as a matter of course the arbitral decision shall not be admitted to have the importance of a general decision on the permissibility or the converse under international law of German submarine warfare.

Berlin, September 7, 1915.

GERARD.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, September 11, 1915.

SIR: With reference to my telegram of the 10th instant, No. 2867,¹ I have the honor to transmit herewith a copy and translation of the note received from the Imperial Foreign Office dated September 9, 1915, inclosing the report of the attack on the steamer *Orduna* by a German submarine.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

The German Minister for Foreign Affairs to Ambassador Gerard.

FOREIGN OFFICE,
Berlin, September 9, 1915.

The undersigned has the honor to transmit herewith to His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the notes of July 27 and September 1, 1915, F. O. 4444¹ and 4959,¹ a memorandum relative to the attack by a German submarine on the English passenger steamer *Orduna*.

The undersigned avails himself, etc.,

VON JAGOW.

[Subinclosure—Translation.]

MEMORANDUM.

At about quarter past seven on the morning of July 9 last a German submarine sighted a steamer from three to five miles away and a sailing vessel about a mile away. The steamer was proceeding without any flag or neutral markings and was taken for a small enemy steamer by the commander of the submarine on account of the difficulty of observation caused by the unfavorable weather. The commander decided first to attack the steamer submerged and fired a torpedo at the vessel which missed its mark.

Hoping to catch the steamer above the water, the submarine rose and chased the steamer on the surface. The steamer did not stop when a shot of warning was fired, and therefore several shells were fired at her which did not strike her, as the submarine was pitching about and the distance was great. The submarine then proceeded to the sailing vessel, which was shown to be the American bark *Nor-mandie*, bound from New York to Liverpool with a cargo of lumber.

¹ Not printed.

Although the cargo contained contraband, the sailing vessel was permitted to continue her voyage unhindered, as it was impossible to guarantee that the crew would be surely rescued in the small boats if the ship were sunk.

The first attack on the *Orduna* by a torpedo was not in accordance with the existing instructions, which provide that large passenger steamers are only to be torpedoed after previous warning and after the rescuing of passengers and crew. The failure to observe the instructions was based on an error, which is at any rate comprehensible, and the repetition of which appears to be out of the question, in view of the more explicit instructions issued in the meantime. Moreover, the commanders of the submarines have been reminded that it is their duty to exercise greater care and to observe carefully the orders issued.

Berlin, September 9, 1915.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 14, 1915.

You are instructed to deliver to the Foreign Office the following summary of the evidence¹ on file in the Department in regard to the sinking of the *Arabic*.

(1) It is generally agreed that the course of the *Arabic* drew her nearer to the *Dunsley* from the time the *Dunsley* and *Arabic* sighted each other until about the time the *Arabic* was torpedoed. (Affidavits of Master, First, Second, and Third Officers, Mess Steward and Seamen of *Dunsley*; affidavits of Captain and Second Officer of the *Arabic*; unsworn statements of three American passengers.) The Officers of the *Dunsley* agree that the *Arabic* altered her course somewhat toward the *Dunsley*, but that her course was variable or zigzag. (Affidavits of Master, First, Second, and Third Officers and Mess Steward and one Seaman of the *Dunsley*; affidavits of Captain and Second Officer of *Arabic*; affidavit of one American passenger.) The Third Officer stated that the *Arabic* began the zigzag course four miles away from the *Dunsley*. Though the *Arabic* at times necessarily pointed toward the *Dunsley*, at the time the torpedo struck she was moving away from the *Dunsley*. (Affidavit of Captain and Second Officer of *Arabic*, Third Officer of *Dunsley*, and one passenger of unknown nationality and unsworn statement of one American passenger.)

(2) The passengers on the *Arabic* variously estimated that the *Arabic* approached the *Dunsley* to within one to five miles. (Affi-

¹ The full text of the evidence is printed in the *American Journal of International Law*, Special Supplement, October, 1916, pp. 203 et seq.

davits of three American passengers; unsworn statements of three American passengers and one passenger of unknown nationality.) While the *Dunsley* was sighted several miles away, the officers of that vessel estimated that the *Arabic* approached to one and a half to three miles from the *Dunsley*. (Affidavits of Master, First and Second Officers.) And one *Dunsley* seaman swore the first distance was only one half mile. The affidavits of the Captain and the Second Officer of the *Arabic* agree that the *Arabic* did not approach nearer than two miles to the *Dunsley*.

(3) It appears that the submarine after shelling the *Dunsley* and after sighting the *Arabic* hid behind the *Dunsley* and submerged before the explosion of the torpedo which sank the *Arabic*. (Affidavits of Master, First and Second Officers, Mess Steward, and one Seaman of *Dunsley*.)

(4) Witnesses are in agreement that the submarine was not seen from the *Arabic* (affidavits of the Captain and Second Officer of the *Arabic*, affidavits of three American passengers and unsworn statement of passenger of unknown nationality), and that the *Arabic* could not have seen the submarine from its position behind the *Dunsley* prior to submerging. (Affidavit of Second Officer of the *Dunsley*.)

(5) All agree that the *Arabic* received no warning. (Affidavit of six American passengers and two passengers of unknown nationality, and the unsworn statements of four American passengers and two passengers of unknown nationality, and the affidavits of Captain and Second Officer of the *Arabic*.)

(6) The torpedo was first seen by the passengers at an estimated distance of 150 to 300 yards away. (Affidavit of passenger of unknown nationality; unsworn statements of two American passengers and one passenger of unknown nationality.) The Captain of the *Arabic*, however, swears that the air bubbles and the torpedo were only 300 feet away when he saw them. (It appears that Consul Washington at Liverpool, in conversation with Captain Finch and the Second Officer of the *Arabic*, learned that they saw bubbles of air at the time they first noticed the torpedo, which were taken to indicate the air escaping at the time the torpedo was expelled from the tube, and that therefore the submarine was supposed to have been only 300 feet from the *Arabic* and about two miles from the *Dunsley*, when the torpedo was fired. Consul Washington's three telegraphic reports of August 24.)

(7) All agree that the torpedo struck the *Arabic* near the stern on the starboard side. (Affidavit of Captain, Second Officer of *Dunsley*, and two American passengers and a passenger of unknown nationality, and unsworn statement of one American passenger.)

From a diagram made by the Second Officer of the *Arabic*, who observed the approach of the torpedo from the navigating bridge, the course of the torpedo was almost at right angles to the course of the *Arabic*.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, October 5, 1915.

MY DEAR MR. SECRETARY:

Prompted by the desire to reach a satisfactory agreement with regard to the *Arabic* incident my Government has given me the following instructions:

The orders issued by His Majesty the Emperor to the commanders of the German submarines—of which I notified you on a previous occasion—have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question.

According to the report of Commander Schneider of the submarine that sank the *Arabic*, and his affidavit as well as those of his men, Commander Schneider was convinced that the *Arabic* intended to ram the submarine. On the other hand, the Imperial Government does not doubt the good faith of the affidavits of the British officers of the *Arabic*, according to which the *Arabic* did not intend to ram the submarine. The attack of the submarine, therefore, was undertaken against the instructions issued to the commander. The Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly.

Under these circumstances my Government is prepared to pay an indemnity for the American lives which to its deep regret have been lost on the *Arabic*. I am authorized to negotiate with you about the amount of this indemnity.

I remain, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, October 6, 1915.

MY DEAR MR. AMBASSADOR:

I beg to acknowledge the receipt of your note of yesterday informing me that orders to the commanders of the German submarines have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question; that the attack on the *Arabic* was undertaken against the instructions issued to the commander of the submarine; and that the Imperial Government regrets and disavows this act and has noti-

fied Commander Schneider accordingly. Furthermore, you advise me that your Government is prepared to pay an indemnity for the loss of American lives and that you are authorized to negotiate with me in regard to this indemnity.

In reply I hasten to inform you that I have noted with satisfaction the above assurances of your Government, and I am now prepared to negotiate with you concerning the amount of the indemnity. Steps will be taken at once to come in touch with the interested persons, after which I shall be pleased to communicate with you further in this matter.

I am, etc.,

ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, October 19, 1915.

Ambassador Gerard reports receipt of a note from the German Foreign Office dated October 16, relating circumstances of destruction of the *Leelanaw* and citing in justification of the German submarine's commander the Declaration of London and German prize ordinance. In addition, the note acknowledges applicability of treaty as in the case of the American vessel *Frye*, and states that the *Leelanaw's* papers have been sent to the Hamburg Prize Court, which will pass upon the case. Ambassador Gerard also reports that interested American parties are stated to be represented before the Prize Court.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, October 19, 1915.

With reference to the Department's telegram No. 2022, dated July 31, 1915, 3 p. m., and to my telegram of even date, No. 3023, I have the honor to transmit herewith a translation of a note received to-day from the Imperial Foreign Office, dated October 16, 1915, relating the facts of the sinking of the American steamer *Leelanaw* by a German submarine on July 25, 1915.

I have, etc.,

J. W. GERARD.

[Inclosure—Translation.]

FOREIGN OFFICE,
Berlin, October 16, 1915.

NOTE VERBALE.

The Foreign Office has the honor to make the following reply to the note verbale of the Embassy of the United States of America, dated August 2, 1915, F. O. No. 4536, relative to the sinking of the American steamer *Leelanaw*.

The steamer mentioned was stopped by a German submarine at 2:10 o'clock on the afternoon of July 25, 1915, in 59 degrees 55 minutes latitude north, and 4 degrees 22 minutes longitude west. According to the ship's papers, she was on a voyage from Archangel to Belfast; the cargo consisted of flax. The commander of the submarine considered the cargo contraband and decided accordingly to sink the vessel and cargo. He saw to it that the crew of the vessel was safely taken ashore and took the ship's papers of the steamer *Leelanaw* on board the submarine.

Under Article 21, number 22 of the German Prize Ordinance as amended by the Ordinance of April 18, 1915 (*Reichsgesetzblatt*, p. 227), flax is to be considered absolute contraband. The Ordinance of April 18, 1915, was communicated to the Embassy of the United States of America by note verbale of April 22, 1915 (IIIa. 8434), with the request that the contents be brought to the knowledge of the American Government. It was possible therefore for the shippers and captain of the steamer *Leelanaw* to have knowledge of the German contraband regulations. The goods were destined for an English port; thus the contraband was liable to seizure without further formality (*vide* Article 30 of the German Prize Ordinance; Article 31 of the Declaration of London). According to value and bulk, the contraband formed more than half the whole cargo; consequently the vessel herself was liable to confiscation (*vide* Article 41, paragraph 2 of the German Prize Ordinance; Article 40 of the Declaration of London). Since the German commander was unable to take the steamer into a German port without exposing the submarine to danger or impairing the success of the operations in which it was engaged, he was justified in destroying the vessel (Article 113 of the German Prize Ordinance; Article 49 of the Declaration of London). He fulfilled his obligation of placing all persons on board and the ship's papers in safety (Article 116 of the German Prize Ordinance; Article 50 of the Declaration of London).

The commander therefore acted in conformity with the principles of international law. The legality of the measures taken by him is examinable by German prize jurisdiction according to Article 1, number 2, of the German Prize Ordinance (Article 51 of the Declaration of London). The ship's papers have already been sent to the Prize Court at Hamburg. This Court will have to decide the questions whether the destruction of the vessel and cargo was legal,

whether the property sunk was liable to confiscation, and to whom and in what amount indemnity is to be awarded, provided any claim therefor is before it. It is true that in the present case, as in the case of the *William P. Frye*, the special provisions of Article 13 of the Prussian-American Treaty of July 11, 1799, are to be considered, pursuant to which property belonging to citizens of the United States of America may only be confiscated when its value is restored.

It appears from information received from the Prize Court that the American shipping interests have already intrusted a Hamburg attorney with the representation of their rights before the Prize Court. The Foreign Office begs to reserve a note concerning the outcome of the prize proceedings.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, October 30, 1915.

The following note has just been received 10 a. m. from Foreign Office:

Ambassador Count Bernstorff has now reported about the negotiations conducted in Washington, D. C., with reference to the *Arabic* incident, and also communicated to me the text of the letter he addressed to the Secretary of State, Mr. Lansing.

From the Ambassador's report I see with satisfaction that a full understanding has been reached between our two Governments.

As Count Bernstorff, acting under instructions of the Imperial Government, has already pointed out, the commander of the submarine that sank the *Arabic* was convinced that the *Arabic* intended to ram his boat. I have since transmitted by mail to Count Bernstorff the evidence on file here—that is, a legalized copy of the report made by the commander of the submarine on September 2, as well as legalized copies of the hearing of the witnesses, conducted on September 21, in the matter of the sinking of the English steamer *Arabic* by a German submarine, together with the diagram and English translations—and have requested him to bring this evidence to the knowledge of the American Government.¹

I beg to transmit herewith also to Your Excellency copies of the above-mentioned documents, for I trust that Your Excellency's Government will gain from them the conviction that the circumstances as explained in the statements of the witnesses give the commander of the submarine justified reasons for his above-mentioned supposition.

The German Government, on the other hand, as Count Bernstorff has already informed Mr. Lansing, does not want to refuse to credit the affidavit of the English officers of the *Arabic*, according to which

¹ Not printed.

no submarine was seen from the *Arabic*. The German Government therefore admits that whereas the commander personally was convinced that he acted in self-defense, there was in fact no attempt made to ram the submarine. I may therefore repeat Count Bernstorff's statement that the attack of the submarine, to our regret, was not in accordance with their instructions issued, and that the commander has been notified accordingly.

As it has been the intention of the Imperial Government to settle the incident in a friendly manner, Count Bernstorff has also been instructed, as you know, to declare to the American Government our readiness to pay, out of friendly consideration and leaving aside the question of the liability resulting from international law, an indemnity for the loss of the American lives which the German Government deeply (* * *).¹

In giving again expression to my satisfaction that Count Bernstorff's negotiations with the Secretary of State, Mr. Lansing, have led to a settlement of the incident, I avail myself of the occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 30, 1915.

Ambassador Gerard is directed to inform the German Foreign Office that the owners of the *Leelanaw* are not represented before the Prize Court and that for the same reason given by the United States Government for refusing to submit the question of the amount of indemnity to be paid in the *William P. Frye* case to the Prize Court, the United States Government desires that the question of the amount of indemnity to be paid in the *Leelanaw* case shall be adjusted by diplomatic negotiations.

Communication from German Government delivered by German Ambassador, under instructions.

GERMAN EMBASSY,
Washington (Received January 7, 1916).

1. German submarines in the Mediterranean had, from the beginning, orders to conduct cruiser warfare against enemy merchant vessels only in accordance with general principles of international law,

¹ Apparent omission.

and in particular measures of reprisal, as applied in the war zone around the British Isles, were to be excluded.

2. German submarines are therefore permitted to destroy enemy merchant vessels in the Mediterranean—i.e., passenger as well as freight ships as far as they do not try to escape or offer resistance—only after passengers and crews have been accorded safety.

3. All cases of destruction of enemy merchant ships in the Mediterranean in which German submarines are concerned are made the subject of official investigation and, besides, submitted to regular prize court proceedings. In so far as American interests are concerned, the German Government will communicate the result to the American Government. Thus also in the *Persia* case if the circumstances should call for it.

4. If commanders of German submarines should not have obeyed the orders given to them they will be punished; furthermore, the German Government will make reparation for damage caused by death of or injuries to American citizens.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, January 17, 1916.

Mr. Gerard reports that he has been informed by German Under Secretary Zimmerman that all German submarines have now reported and that a German submarine did not cause the sinking of the *Persia*.

*Memorandum from the German Embassy.*¹

GERMAN EMBASSY,
Washington.

MEMORANDUM.

The Imperial German Government, on account of the friendly relations which have always existed between the two great Nations and earnestly desiring to continue them, wishes to explain the U boat question once more to the American Government.

At the outbreak of the war the German Government, acting upon the suggestion of the United States, immediately expressed its readiness to ratify the Declaration of London. At that time a German prize code had already been issued, which was entirely—and with-

¹ Received by the Secretary of State March 8, 1916.

out modification—based upon the rules of the Declaration of London. Germany thereby proved her willingness to recognize fully the existing rules of international law which insure the freedom of the sea for the legitimate trade of neutral Nations, not only among themselves but also with belligerent countries.

Great Britain, on the other hand, declined to ratify the Declaration of London and, after the outbreak of the war, began to restrict the legitimate trade of the neutrals in order to hit Germany. The contraband provisions were systematically extended on August 5, 20, September 21, and October 29, 1914. On November 3, 1914, the order of the British Admiralty followed, declaring the whole North Sea a war zone, in which commercial shipping would be exposed to most serious dangers from mines and men-of-war. Protests from neutrals were of no avail, and from that time on the freedom of neutral commerce with Germany was practically destroyed. Under these circumstances Germany was compelled to resort, in February, 1915, to reprisals in order to fight her opponents' measures, which were absolutely contrary to international law. She chose for this purpose a new weapon, the use of which had not yet been regulated by international law and, in doing so, could and did not violate any existing rules but only took into account the peculiarity of this new weapon, the submarine boat.

The use of the submarine naturally necessitated a restriction of the free movements of neutrals and constituted a danger for them which Germany intended to ward off by a special warning analogous to the warning England had given regarding the North Sea.

As both belligerents—Germany in her note of February 17 and Great Britain in those of February 18 and 20, 1915—claimed that their proceeding was only enacted in retaliation for the violation of international law by their opponents, the American Government approached both parties for the purpose of trying to reestablish international law as it had been in force before the war. Germany was asked to adapt the use of her new weapon to the rules which had been existing for the former naval weapons and England not to interfere with the food supplies intended for the noncombatant German population and to admit their distribution under American supervision. Germany, on March 1, 1915, declared her willingness to comply with the proposal of the American Government, whilst England, on the other hand, declined to do so. By the Order in Council of March 11, 1915, Great Britain abolished even what had remained of the freedom of neutral trade with Germany and her neutral neighbors. England's object was to starve Germany into submission by these illegal means.

Germany, after neutral citizens had lost their lives against her wish and intention, nevertheless, in the further course of the war, complied with the wishes of the American Government regarding the use of submarines. The rights of neutrals regarding legal trading were, in fact, nowhere limited by Germany.

Then England made it impossible for submarines to conform with

the old rules of international law by arming nearly all merchantmen and by ordering the use of the guns on merchant vessels for attack. Photographic reproductions of those instructions have been transmitted to neutral Governments with the memorandum of the German Government of February 8, 1916. These orders are obviously in contradiction with the note delivered by the British Ambassador in Washington to the American Government on August 25, 1914. On account of the proposals made by the United States on January 23, 1916, regarding disarmament, the Imperial Government hoped that these facts would enable the neutral Governments to obtain the disarmament of the merchant ships of her opponents. The latter, however, continued with great energy to arm their merchantmen with guns.

The principle of the United States Government not to keep their citizens off belligerent merchant ships has been used by Great Britain and her allies to arm merchant ships for offensive purposes. Under these circumstances merchantmen can easily destroy submarines, and, if their attack fails, still consider themselves in safety by the presence of American citizens on board.

The order to use arms on British merchantmen was supplemented by instructions to the masters of such ships to hoist false flags and to ram U boats. Reports on payments of premiums and bestowals of decorations to successful masters of merchantmen show the effects of these orders. England's allies have adopted this position.

Now Germany is facing the following facts:

(a) A blockade contrary to international law (compare American note to England of November 5, 1915)¹ has for one year been keeping neutral trade from German ports and is making German exports impossible.

(b) For eighteen months, through the extending of contraband provisions in violation of international law (compare American note to England of November 5, 1915), the overseas trade of neighboring neutral countries, so far as Germany is concerned, has been hampered.

(c) The interception of mails in violation of international law (compare American memorandum to England of January 10, 1916)² is meant to stop any intercourse of Germany with foreign countries.

(d) England, by systematically and increasingly oppressing neutral countries, following the principle of "might before right," has prevented neutral trade on land with Germany so as to complete the blockade of the central powers intended to starve their civil population.

(e) Germans met by our enemies on the high seas are deprived of their liberty no matter whether they are combatants or noncombatants.

¹ This note embodied the instructions from the Secretary of State sent October 21, 1915, printed in *American Journal of International Law*, Special Supplement, October, 1916, p. 73.

² Embodied in telegram from the Secretary of State sent January 4, 1916, in *American Journal of International Law*, Special Supplement, October, 1916, p. 404.

(f) Our enemies have armed their merchant vessels for offensive purposes, theoretically making it impossible to use our U boats according to the principles set forth in London Declaration (compare American memorandum of February 8, 1916).¹

The *English White Book* of January 5, 1916, on the restriction of German trade, boasts that by British measures Germany's export trade has been stopped almost entirely, whilst her imports are subject to England's will.

The Imperial Government feels confident that the people of the United States, remembering the friendly relations that for the last hundred years have existed between the two nations, will, in spite of the difficulties put into the way by our enemies, appreciate the German viewpoint as laid down above.

J. BERNSTORFF.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 27, 1916.

Mr. Gerard is informed that considerable evidence has been received by the Department to the effect that the steamship *Sussex* with several American citizens among the passengers was sunk by a submarine torpedo on the 24th instant, and he is directed to inquire immediately of the German Foreign Office whether a submarine belonging to Germany or her allies sunk the *Sussex*. The Department expects a prompt reply.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 28, 1916.

Mr. Gerard is informed of Department's advices that the *Englishman*, a steamer of the Dominion Line, was torpedoed March 21 after departure from Avonmouth for Portland, Me. The *Englishman* was a horse ship carrying several Americans on board and the survivors' list does not include some of them.

Mr. Gerard is asked to inquire immediately of the German authorities whether the submarine which sank the vessel belonged to Germany or her allies and to add that the United States Government expects a prompt answer.

¹ This seems to refer to the "Memorandum of the Imperial German Government on the Treatment of Armed Merchantmen," dated February 8, 1916, printed *infra*, pp. 121-124.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 29, 1916.

Mr. Lansing states that the Department has been advised that on March 27 the ship *Manchester Engineer* with American citizens on board was torpedoed off Waterford without warning.

Mr. Gerard is directed to make inquiry of the German Foreign Minister as to whether a submarine of Germany or her allies sank the *Manchester Engineer*.

The Department expects a prompt answer.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 1, 1916.

Mr. Lansing states that information has been received by the Department that the *Eagle Point*, a British steamer with Americans aboard, was torpedoed on March 28, after surrender. The vessel was bound from St. Johns, New Brunswick, to Cherbourg, France, and those on board were left 130 miles south of Queenstown in two small boats, with a stormy wind blowing, in a heavy sea.

Mr. Gerard is directed to inquire immediately of the German Government whether a submarine belonging to Germany or her allies torpedoed the *Eagle Point*. A prompt reply is expected by the Department.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 1, 1916.

Mr. Lansing states that the Department is in receipt of information that the *Berwindvale*, a British steamer with four Americans on board, was on March 16 torpedoed off Bantry, Ireland, without warning. Apparently the *Berwindvale* was coming to the United States for cargo.

Mr. Gerard is directed to inquire of the German Government whether a submarine of Germany or her allies torpedoed the *Berwindvale*. The Department expects a prompt reply.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, April 11, 1916.

Following note just received:

FOREIGN OFFICE,
Berlin, April 10, 1916.

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the notes of the 29th and 30th ultimo and the 3d instant on the subject of the steamers *Sussex*, *Manchester Engineer*, *Englishman*, *Berwindvale*, and *Eagle Point*, that the cases mentioned have been subjected to a careful investigation by the Admiralty Staff of the Navy, in accordance with my notes of the 30th and 31st ultimo and the 4th and 5th instants, and that all this investigation has led to the following results:

One. English steamer *Berwindvale*.—A steamer, which was possibly the *Berwindvale*, was encountered by a German submarine on the evening of the 16th of March within sight of Bullrock Light on the Irish coast. As soon as the steamer noticed the submarine, which was traveling on the surface, she turned and ran away. She was called upon to stop by a shot of warning, but did not heed this warning, put out all her lights, and tried to escape. She was thereupon shelled until she stopped and lowered several boats without receiving further orders. After the crew had entered the boats and had sufficient time to pull off to a distance the ship was sunk.

The name of this steamer has not been ascertained. Even with the help of the data furnished by the American Embassy it is not possible to say with certainty that the incident described above relates to the steamer *Berwindvale*. But since the steamer sunk was a tank steamer, like the *Berwindvale*, it may be assumed that the vessels are identical; in this case, however, the statement of the Embassy that the *Berwindvale* was torpedoed without warning would conflict with the facts.

Two. English steamer *Englishman*.—On March 24 this steamer was ordered to stop by two shots of warning by a German submarine about twenty nautical miles west of Islay, but continued on her course without paying any attention to the warning and was therefore forced to stop by the submarine by means of artillery fire after a long pursuit; she then lowered boats without receiving further orders. After the German commander had convinced himself that the crew had entered the boats and pulled away from the vessel he sank the steamer.

Three. English steamer *Manchester Engineer*.—It has not been possible to ascertain by the investigation conducted as yet whether the attack on this steamer, which took place off Waterford on March 27 according to the statements of the Embassy, is traceable to a German submarine. The data furnished regarding the place and

time of the incident do not afford a sufficient clue for the investigation. The receipt of more exact details concerning place, time, and attendant circumstances of the attack reported to the American Government would therefore be desired in order that the investigation may then be brought to a conclusion.

Four. English steamer *Eagle Point*.—On the morning of March 28 this steamer was ordered to stop by a German submarine by signal and shot about 100, not 130, nautical miles from the southwest coast of Ireland, but she continued on her course. She was thereupon shelled until she stopped, and without receiving further orders lowered two boats which the crew entered. After the commander had convinced himself that the boats, which had hoisted sails, had gotten clear of the steamer he sank her.

At the time of the sinking a north-northwest wind of the second strength was blowing, not a "stormy wind," and there was a slight roll against the wind, not a "heavy sea," as asserted in the Embassy's statement of the facts. The boats furthermore had every prospect of being picked up very soon, since the place of the sinking was on one of the much used steamer routes. If the crew of the steamer in rescuing themselves made use of only two small boats they are themselves to blame, for there were at least four large folding boats on the steamer, as the submarine was able to ascertain.

Five. French steamer *Sussex*.—The establishment of the fact whether the channel steamer *Sussex* was damaged by a German submarine or not has been made extraordinarily difficult, because no exact data concerning place, time, and attendant circumstances of the sinking were known and no picture of this vessel could be obtained until April 6. Consequently the investigation had to embrace every one of the undertakings which took place in the channel on or near the route between Folkestone and Dieppe on March 24, the day in question.

In this locality a long black vessel without a flag, with a gray smokestack and a small gray superstructure, and with two tall masts, was encountered by a German submarine on March 24 about the middle of the English Channel. The German commander gained the definite conviction that he had before him a war vessel, a mine layer of the newly constructed English *Arabic* class. He was led to this conviction, one, by the flush deck of the vessel; two, by the warship form of stern, protruding diagonally backward and then falling downward; three, by the warship like coat of paint; four, by the high speed of about eighteen sea miles developed by the vessel; five, by the circumstance that the vessel did not follow the course to the north of the lightbuoys between Dungeness and Beachy Head, which is the customary course for merchant shipping according to the frequent and uniform observations of the German submarines, but sailed in the middle of the channel, pointing about for Havre. He consequently attacked the ship submerged at 3:55 o'clock p. m., Central European time, one and a half sea miles southeast of Bullrock Bank. The torpedo struck and caused such a severe explosion in the foreship that

the whole foreship was torn loose up to the bridge. The particularly severe explosion permits the safe conclusion that there were large quantities of ammunition on board.

The German commander has made a sketch of the vessel attacked by him, two reproductions of which are attached. The picture of the steamer *Sussex*, two copies of which are likewise attached, is a photograph taken from the English *Daily Graphic* paper of the 27th ultimo. A comparison of the sketch with the picture shows that the *Sussex* is not identical with the vessel attacked; the difference in the position of the smokestacks and the shape of the stern is particularly prominent. No further attack whatever was made by German submarines at the time coming into question for the *Sussex* on the way between Folkestone and Dieppe.

From this the German Government is forced to assume that the damaging of the *Sussex* is to be attributed to another cause than the attack of a German submarine. In order that the true state of affairs may be cleared up, the fact may possibly be of use that on the 1st and 2d of April alone no less than twenty-six English mines were exploded by German naval forces in the channel; the whole of that part of the seas is dangerous owing to floating mines and torpedoes which have not sunk. The waters near the English coast will be still more dangerous on account of German mines also which have been sowed against the hostile naval forces.

Should the American Government have at its disposal further material for forming judgment on the case of the *Sussex* the German Government begs to request that this material may be communicated to it in order that it may be able to subject this material to an examination also. In the event of differences of opinion arising between the two Governments in this connection, the German Government declares at this time its readiness to permit the facts to be ascertained by a mixed committee of investigation, pursuant to the third title of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

The undersigned requests that the above be brought to the knowledge of the Government of the United States and avails himself of this opportunity to renew, etc.

VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 18, 1916.

You are instructed to deliver to the Secretary of Foreign Affairs a communication reading as follows:

I did not fail to transmit immediately, by telegraph, to my Government Your Excellency's note of the 10th instant in regard to

certain attacks by German submarines, and particularly in regard to the disastrous explosion which on March 24, last, wrecked the French steamship *Sussex* in the English Channel. I have now the honor to deliver, under instructions from my Government, the following reply to Your Excellency:

Information now in the possession of the Government of the United States fully establishes the facts in the case of the *Sussex*,¹ and the inferences which my Government has drawn from that information it regards as confirmed by the circumstances set forth in Your Excellency's note of the 10th instant. On the 24th of March, 1916, at about 2:50 o'clock in the afternoon, the unarmed steamer *Sussex*, with 325 or more passengers on board, among whom were a number of American citizens, was torpedoed while crossing from Folkestone to Dieppe. The *Sussex* had never been armed; was a vessel known to be habitually used only for the conveyance of passengers across the English Channel; and was not following the route taken by troop ships or supply ships. About eighty of her passengers, noncombatants of all ages and sexes, including citizens of the United States, were killed or injured.

A careful, detailed, and scrupulously impartial investigation by naval and military officers of the United States has conclusively established the fact that the *Sussex* was torpedoed without warning or summons to surrender and that the torpedo by which she was struck was of German manufacture. In the view of the Government of the United States these facts from the first made the conclusion that the torpedo was fired by a German submarine unavoidable. It now considers that conclusion substantiated by the statements of Your Excellency's note. A full statement of the facts upon which the Government of the United States has based its conclusion is inclosed.

The Government of the United States, after having given careful consideration to the note of the Imperial Government of the 10th of April, regrets to state that the impression made upon it by the statements, and proposals contained in that note is that the Imperial Government has failed to appreciate the gravity of the situation which has resulted, not alone from the attack on the *Sussex* but from the whole method and character of submarine warfare as disclosed by the unrestrained practice of the commanders of German undersea craft during the past twelvemonth and more in the indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations. If the sinking of the *Sussex* had been an isolated case the Government of the United States might find it possible to hope that the officer who was responsible for that act had wilfully violated his orders or had been criminally negligent in taking none of the precautions they prescribed, and that the ends of justice might be satisfied by imposing upon him an adequate punishment, coupled with a formal disavowal of the act and payment of a suitable indemnity by the Imperial Government. But, though the attack upon the *Sussex*

¹ The full text of the evidence is printed in the *American Journal of International Law*, Special Supplement, October, 1916, pp. 230 et seq.

was manifestly indefensible and caused a loss of life so tragical as to make it stand forth as one of the most terrible examples of the inhumanity of submarine warfare as the commanders of German vessels are conducting it, it unhappily does not stand alone.

On the contrary, the Government of the United States is forced by recent events to conclude that it is only one instance, even though one of the most extreme and most distressing instances, of the deliberate method and spirit of indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations which have become more and more unmistakable as the activity of German undersea vessels of war has in recent months been quickened and extended.

The Imperial Government will recall that when, in February, 1915, it announced its intention of treating the waters surrounding Great Britain and Ireland as embraced within the seat of war and of destroying all merchant ships owned by its enemies that might be found within that zone of danger, and warned all vessels, neutral as well as belligerent, to keep out of the waters thus proscribed or to enter them at their peril, the Government of the United States earnestly protested. It took the position that such a policy could not be pursued without constant gross and palpable violations of the accepted law of nations, particularly if submarine craft were to be employed as its instruments, inasmuch as the rules prescribed by that law, rules founded on the principles of humanity and established for the protection of the lives of noncombatants at sea, could not in the nature of the case be observed by such vessels. It based its protest on the ground that persons of neutral nationality and vessels of neutral ownership would be exposed to extreme and intolerable risks; and that no right to close any part of the high seas could lawfully be asserted by the Imperial Government in the circumstances then existing. The law of nations in these matters, upon which the Government of the United States based that protest, is not of recent origin or founded upon merely arbitrary principles set up by convention. It is based, on the contrary, upon manifest principles of humanity and has long been established with the approval and by the express assent of all civilized nations.

The Imperial Government, notwithstanding, persisted in carrying out the policy announced, expressing the hope that the dangers involved, at any rate to neutral vessels, would be reduced to a minimum by the instructions which it had issued to the commanders of its submarines, and assuring the Government of the United States that it would take every possible precaution both to respect the rights of neutrals and to safeguard the lives of noncombatants.

In pursuance of this policy of submarine warfare against the commerce of its adversaries, thus announced and thus entered upon in despite of the solemn protest of the Government of the United States, the commanders of the Imperial Government's undersea vessels have carried on practices of such ruthless destruction which have made it more and more evident as the months have gone by that the Imperial Government has found it impracticable to put any such restraints

upon them as it had hoped and promised to put. Again and again the Imperial Government has given its solemn assurances to the Government of the United States that at least passenger ships would not be thus dealt with, and yet it has repeatedly permitted its under-sea commanders to disregard those assurances with entire impunity. As recently as February last it gave notice that it would regard all armed merchantmen owned by its enemies as part of the armed naval forces of its adversaries and deal with them as with men-of-war, thus, at least by implication, pledging itself to give warning to vessels which were not armed and to accord security of life to their passengers and crews; but even this limitation their submarine commanders have recklessly ignored.

Vessels of neutral ownership, even vessels of neutral ownership bound from neutral port to neutral port, have been destroyed along with vessels of belligerent ownership in constantly increasing numbers. Sometimes the merchantmen attacked have been warned and summoned to surrender before being fired on or torpedoed; sometimes their passengers and crews have been vouchsafed the poor security of being allowed to take to the ship's boats before the ship was sent to the bottom. But again and again no warning has been given, no escape even to the ship's boats allowed to those on board. Great liners like the *Lusitania* and *Arabic* and mere passenger boats like the *Sussex* have been attacked without a moment's warning, often before they have even become aware that they were in the presence of an armed ship of the enemy, and the lives of noncombatants, passengers, and crew have been destroyed wholesale and in a manner which the Government of the United States cannot but regard as wanton and without the slightest color of justification. No limit of any kind has in fact been set to their indiscriminate pursuit and destruction of merchantmen of all kinds and nationalities within the waters which the Imperial Government has chosen to designate as lying within the seat of war. The roll of Americans who have lost their lives upon ships thus attacked and destroyed has grown month by month until the ominous toll has mounted into the hundreds.

The Government of the United States has been very patient. At every stage of this distressing experience of tragedy after tragedy it has sought to be governed by the most thoughtful consideration of the extraordinary circumstances of an unprecedented war and to be guided by sentiments of very genuine friendship for the people and Government of Germany. It has accepted the successive explanations and assurances of the Imperial Government as of course given in entire sincerity and good faith, and has hoped, even against hope, that it would prove to be possible for the Imperial Government so to order and control the acts of its naval commanders as to square its policy with the recognized principles of humanity as embodied in the law of nations. It has made every allowance for unprecedented conditions and has been willing to wait until the facts became unmistakable and were susceptible of only one interpretation.

It now owes it to a just regard for its own rights to say to the

Imperial Government that that time has come. It has become painfully evident to it that the position which it took at the very outset is inevitable, namely, the use of submarines for the destruction of an enemy's commerce, is, of necessity, because of the very character of the vessels employed and the very methods of attack which their employment of course involves, utterly incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of noncombatants.

If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether. This action the Government of the United States contemplates with the greatest reluctance but feels constrained to take in behalf of humanity and the rights of neutral nations.

LANSING.

STATEMENT OF FACTS IN SUSSEX CASE.

ACCOMPANYING NOTE TO GERMAN GOVERNMENT OF APRIL 18, 1916.

The French channel steamer *Sussex*, employed regularly in passenger service between the ports of Folkestone, England, and Dieppe, France, as it had been for years (Statement of the French Ministry of Foreign Affairs), left Folkestone for Dieppe at 1:25 p. m., March 24, 1916, with 325 or more passengers and a crew of fifty-three men. (Declaration of Captain Mouffet; report of Rear Admiral Grasset.) The passengers, among whom were about twenty-five American citizens (Telegram London Embassy, March 25, and Paris Embassy, March 26 and 28) were of several nationalities and many of them were women and children and nearly half of them subjects of neutral states. (Report of Commander Sayles and Lieutenant Smith; Rear Admiral Grasset's report.) The *Sussex* carried no armament (Statement of French Ministry of Foreign Affairs; report of Commander Sayles and Lieutenant Smith; affidavits of American passengers), has never been employed as a troop ship, and was following a route not used for transporting troops from Great Britain to France. (British Admiralty statement; statement of French Ministry of Foreign Affairs.)

The steamer proceeded on its course almost due south after passing Dungeness. (Declaration of Captain Mouffet.) The weather was

clear and the sea smooth. (Affidavits of Edna Hale, John H. Hearley, Gertrude W. Warren.) At 2:50 p. m., when the *Sussex* was about thirteen miles from Dungeness (Declaration of Captain Mouffet), the captain of the vessel, who was on the bridge, saw about 150 meters from the ship, on the port side, the wake of a torpedo. (Declaration of Captain Mouffet.) It was also seen very clearly by the first officer and the boatswain who were with the captain on the bridge. (Report of Rear Admiral Grasset.) Immediately the captain gave orders to port the helm and stop the starboard engine (Declaration of Captain Mouffet), the purpose being to swing the vessel to starboard so as to dodge the torpedo by allowing it to pass along the port bow on a line converging with the altered course of the steamer. Before, however, the vessel could be turned far enough to avoid crossing the course of the torpedo, the latter struck the hull at an angle a short distance forward of the bridge, exploded, destroyed the entire forward part of the steamer as far back as the first water-tight bulkhead, carried away the foremast with the wireless antennæ and killed or injured about eighty of the persons on board. (Declaration of Captain Mouffet; report of Rear Admiral Grasset; deposition of Henry S. Beer.) At the time no other vessel was in sight. (Affidavits of Samuel F. Bemis, T. W. Culbertson, John H. Hearley, and others.)

The approach of the torpedo was witnessed by several other persons on the vessel. (Affidavits of Samuel F. Bemis, Henry S. Beer, Gertrude W. Warren.) One of these, an American citizen named Henry S. Beer, was leaning on the port rail about ten feet behind the bridge and gazing seaward when he saw the approaching torpedo about 100 yards away and exclaimed to his wife and companion: "A torpedo!" Immediately following his exclamation the missile struck the vessel. (Depositions of Henry S. Beer and Mrs. Henry S. Beer.)

In further corroboration of the fact, that the captain saw the torpedo coming toward the vessel, is the sworn statement of the engineers on duty that the order to port the helm and to stop the starboard engine was received and obeyed. (Report of Admiral Grasset.) No reasonable explanation can be given for this unusual order other than that the captain saw something which caused him to change his course sharply to starboard.

In addition to this evidence which would in itself appear to be conclusive that the agent of destruction was a torpedo, is that of Lieutenant Smith, United States Navy, attached to the American Embassy at Paris, who, accompanied by Major Logan, United States Army, of the Embassy, went to Boulogne, inspected the hull of the *Sussex* and personally found beneath the mass of water-soaked débris of the wreck fifteen pieces of metal, which they retained in their possession as they did not believe the pieces formed part of the vessel. The inspection of the hull disclosed that the vessel was wrecked by an external explosion, the boilers being intact, and that a short distance forward of the bridge was a large dent showing that the vessel had received a heavy blow, the direction of impact being from abaft the

beam along a line at an acute angle with the keel of the vessel. (Report of Lieutenant Smith, cabled April 1.) This evidence coincides with and corroborates the statement that the vessel was swinging to starboard and away from the torpedo when struck.

The pieces of metal, which the American officers had collected, were compared by Lieutenant Smith, Lieutenant Commander Sayles, and Major Logan with mines and plans of mines in possession of the French Naval authorities at Boulogne, Rochefort, and Toulon, and British Naval authorities at Portsmouth. These officers are positive in their opinion that these pieces of metal were not parts of a mine. (Report of Lieutenant Smith, cabled April 1 and 5.)

Among these fifteen pieces of metal were two screw-bolts showing the effects of an explosion, which were stamped with "K" and "56" on faces of the head of one, and "K" and "58" on faces of the head of the other. On examining German torpedoes in the possession of the French Naval authorities at Toulon, and of the English Naval authorities at Portsmouth, the American officers found that identical screws with the letter "K" and a number were employed to fasten the "war" head (kopf) to the air chamber. (Lieutenant Smith's reports, cabled April 2, 5, and 13.)

The screws used in French and English torpedoes have no markings and are of a slightly different size. (Same reports.) Furthermore, the American officers were able by comparison and close examination to positively identify and locate all the remaining thirteen pieces of metal as parts of a German torpedo, as follows:

Fragment 3, part of inner seat of water relief valve of engine valve.

Fragments 4 and 5, punto bands of engine-room casing.

Fragments 6 to 10 inclusive and 12, parts of engine cylinders.

Fragments 11, 13, 14, 15, parts of steel war head still bearing the distinctive red paint common to German torpedo war heads. (Report of Lieutenant Smith, cabled April 5.)

In view of these authenticated facts there can be no reasonable doubt but that the *Sussex* was torpedoed and that the torpedo was of German manufacture. As no vessel was seen by any person on the *Sussex*, the conclusion is irresistible that the torpedo was launched without warning from a submarine which was submerged at the time of the attack and remained beneath the surface after the explosion.

The conclusion thus reached from the evidence (the affidavits being those of American citizens) collected by the Department of State is substantiated by the statements in the Imperial Government's note of April 10, 1916. According to those statements—

(a) A German submarine torpedoed a steamer one and a half miles southeast of Bullrock Bank.

Department's comment.—The point of attack is exactly in the course which was taken by the *Sussex* after passing Dungeness and about one-half mile from the place where the captain of the *Sussex* states he was torpedoed.

(b) The attack took place at 3:55 o'clock p. m., Central European time.

Department's comment.—3:55 p. m., Central European time would correspond to 2:55 p. m., Western European time. The time of the striking of the torpedo according to the captain of the *Sussex*, and the stopping of the clocks on board the vessel, was 2:50 p. m., Western time.

(c) The torpedo, when it struck, caused an explosion which tore away the whole foreship up to the bridge.

Department's comment.—The forepart of the *Sussex* was wrecked as far back as the first water-tight bulkhead, according to the official reports.

(d) The German submarine was submerged when the torpedo was launched and there is no statement that it came to the surface after the attack.

Department's comment.—The conclusion was reached that the submarine was submerged from the fact that no one on the *Sussex* saw a submarine though the weather was fine.

(e) No warning was given and no attempt was made to give one since it is not mentioned.

Department's comment.—The evidence collected shows affirmatively no warning was given.

(f) A sketch by the submarine commander of the steamer which he torpedoed does not agree with a photograph of the *Sussex* in the *London Graphic*.

Department's comment.—This sketch was apparently made from memory of an observation of the vessel through a periscope. As the only differences noted by the commander, who relied on his memory, were the position of the smokestack and the shape of the stern, it is to be presumed the vessels were similar in other respects.

(g) No other German submarines on that day attacked steamers in that locality.

Department's comment.—As no vessel is reported to have been torpedoed without warning by a submerged submarine other than the *Sussex*, it is beyond question that that vessel was torpedoed by the submarine whose commander's report is relied upon in the note of April 10.

LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, May 4, 1916.

Following is the text of the note handed to me both in German and English at 5:30 this afternoon by Secretary of State for Foreign Affairs:

FOREIGN OFFICE,
Berlin, May 4, 1916.

The undersigned, on behalf of the Imperial Government, has the honor to present to His Excellency the Ambassador of the United States, Mr. James W. Gerard, the following reply to the note of April 20 regarding the conduct of German submarine warfare:

The German Government has handed over to the proper naval authorities for further investigation the evidence concerning the *Sussex*, as communicated by the Government of the United States. Judging by results that this investigation has hitherto yielded, the German Government is alive to the possibility that the ship mentioned in the note of April 10 as torpedoed by a German submarine is actually identical with the *Sussex*. The German Government begs to reserve further communications on the matter until certain points are ascertained which are of decisive importance for establishing the facts of the case. Should it turn out that the commander was wrong in assuming the vessel to be a man-of-war the German Government will not fail to draw the consequences resulting therefrom.

In connection with the case of the *Sussex*, the Government of the United States has made a series of statements, gist of which is the assertion that this incident is to be considered as one instance for the deliberate method of indiscriminate destruction of vessels of all sorts, nationalities, and destinations by German submarine commanders. The German Government must emphatically repudiate this assertion. The German Government, however, thinks it of little avail to enter into details in the present stage of affairs, more particularly as the Government of the United States has omitted to substantiate this assertion by reference to concrete facts. The German Government will only state that it has imposed far-reaching restraints upon the use of the submarine weapon solely in consideration of the interests of neutrals, in spite of the fact that these restrictions are necessarily of advantage to Germany's enemies; no such consideration has ever been shown to the neutrals by Great Britain and her allies.

The German submarine forces have had, in fact, orders to conduct submarine warfare in accordance with the general principles of visit and search and destruction of merchant vessels as recognized by international law, the sole exception being the conduct of warfare against the enemy trade carried on enemy freight ships that are encountered in the war zone surrounding Great Britain; with regard to these no assurances have ever been given to the Government of the

United States; no such assurance was contained in the declaration of February 8, 1916. The German Government cannot admit any doubt that these orders have been given and are executed in good faith. Errors have actually occurred; they can in no kind of warfare be avoided altogether, and allowances must be made in the conduct of naval warfare against an enemy resorting to all kinds of ruses, whether permissible or illicit. But, apart from the possibility of errors, naval warfare, just like warfare on land, implies unavoidable dangers for neutral persons and goods entering the fighting zone. Even in cases where naval action was confined to their ordinary forms of cruiser warfare, neutral persons and goods have repeatedly come to grief. The German Government has repeatedly and explicitly pointed out the dangers from mines that have led to the loss of numerous ships. The German Government has made several proposals to the Government of the United States in order to reduce to a minimum for American travelers and goods the inherent dangers of naval warfare. Unfortunately the Government of the United States has decided not to accept these proposals; had it accepted, the Government of the United States would have been instrumental in preventing the greater part of the accidents that American citizens have met with in the meantime. The German Government still stands by its offer to come to an agreement along these lines.

As the German Government has repeatedly declared, it cannot dispense with the use of the submarine weapon in the conduct of warfare against enemy trade. The German Government, however, has now decided to make a further concession in adapting the methods of submarine warfare to the interests of the neutrals; in reaching this decision the German Government has been actuated by considerations which are above the level of the disputed question.

The German Government attaches no less importance to the sacred principles of humanity than the Government of the United States. Again, it fully takes into account that both Governments have for many years coöperated in developing international law in conformity with these principles, the ultimate object of which has been always to confine warfare on sea and on land to the armed forces of the belligerents and to safeguard, as far as possible, noncombatants against the horrors of war.

But, although those considerations are of great weight, they alone would not, under the present circumstances, have determined the attitude of the German Government.

For, in answer to the appeal made by the United States Government on behalf of the sacred principles of humanity and international law, the German Government must repeat once more with all emphasis that it was not the German but the British Government which, ignoring all the accepted rules of international law, has extended this terrible war to the lives and property of noncombatants, having no regard whatever for the interests and rights of the neutrals and noncombatants that through this method of warfare have been severely injured.

In self-defense against the illegal conduct of British warfare, while fighting a bitter struggle for her national existence, Germany had to resort to the hard but effective weapon of submarine warfare. As matters stand, the German Government cannot but reiterate its regret that the sentiments of humanity which the Government of the United States extends with such fervor to the unhappy victims of submarine warfare are not extended with the same warmth of feeling to the many millions of women and children who, according to the avowed intentions of the British Government, shall be starved and who, by their sufferings, shall force the victorious armies of the central powers into ignominious capitulation. The German Government, in agreement with the German people, fails to understand this discrimination, all the more as it has repeatedly and explicitly declared itself ready to use the submarine weapon in strict conformity with the rules of international law as recognized before the outbreak of the war, if Great Britain were likewise ready to adapt her conduct of warfare to these rules. The several attempts made by the Government of the United States to prevail upon the British Government to act accordingly have failed because of the flat refusal on the part of the British Government. Moreover, Great Britain has ever since again and again violated international law, surpassing all bounds in outraging neutral rights. The latest measure adopted by Great Britain, declaring German bunker coal as contraband and establishing conditions under which alone English bunker coal shall be supplied to neutrals, is nothing but an unheard of attempt, by way of exaction, to force neutral tonnage into the service of the British trade war.

The German people knows that the Government of the United States has the power to confine this war to the armed forces of the belligerent countries in the interest of humanity and the maintenance of international law. The Government of the United States would have been certain of attaining this end had it been determined to insist against Great Britain on its incontestable rights to the freedom of the seas. But, as matters stand, the German people is under the impression that the Government of the United States, while demanding that Germany, struggling for her existence, shall restrain the use of an effective weapon, and while making the compliance with these demands a condition for the maintenance of relations with Germany, confines itself to protests against the illegal methods adopted by Germany's enemies. Moreover, the German people knows to what a considerable extent its enemies are supplied with all kinds of war material from the United States.

It will therefore be understood that the appeal made by the Government of the United States to the sentiments of humanity and to the principles of international law cannot, under the circumstances, meet with the same hearty response from the German people which such an appeal is otherwise always certain to find here. If the German Government, nevertheless, has resolved to go to the utmost limit of concessions, it has not alone been guided by the friendship con-

necting the two great nations for over a hundred years, but it also has thought of the great doom which threatens the entire civilized world should this cruel and sanguinary war be extended and prolonged.

The German Government, conscious of Germany's strength, has twice within the last few months announced before the world its readiness to make peace on a basis safeguarding Germany's vital interests, thus indicating that it is not Germany's fault if peace is still withheld from the nations of Europe.

The German Government feels all the more justified to declare that the responsibility could not be borne before the forum of mankind and history if, after twenty-one months' duration of the war, the submarine question under discussion between the German Government and the Government of the United States were to take a turn seriously threatening the maintenance of peace between the two nations.

As far as it lies with the German Government, it wishes to prevent things from taking such a course. The German Government, moreover, is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, a principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

But neutrals cannot expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it is violated.

Accordingly, the German Government is confident that, in consequence of the new orders issued to its naval forces, the Government of the United States will now also consider all impediments removed which may have been in the way of a mutual coöperation towards the restoration of the freedom of the seas during the war as suggested in the note of July 23, 1915, and it does not doubt that the Government of the United States will now demand and insist that the British Government shall forthwith observe the rules of international law universally recognized before the war as they are laid

down in the notes presented by the Government of the United States to the British Government on December 28, 1914, and November 5, 1915. Should the steps taken by the Government of the United States not attain the object it desires to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation, in which it must reserve itself complete liberty of decision.

The undersigned avails himself of this occasion to renew to the American Ambassador the assurances of his highest consideration.

VON JAGOW.

Foreign Office informs me note will be given out here to the German newspapers and American correspondents late to-morrow afternoon.

GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 8, 1916.

You are instructed to deliver to the Minister of Foreign Affairs a communication textually as follows:

The note of the Imperial German Government under date of May 4, 1916, has received careful consideration by the Government of the United States. It is especially noted, as indicating the purpose of the Imperial Government as to the future, that it "is prepared to do its utmost to confine the operations of the war for the rest of its duration to the fighting forces of the belligerents," and that it is determined to impose upon all its commanders at sea the limitations of the recognized rules of international law upon which the Government of the United States has insisted. Throughout the months which have elapsed since the Imperial Government announced, on February 4, 1915, its submarine policy, now happily abandoned, the Government of the United States has been constantly guided and restrained by motives of friendship in its patient efforts to bring to an amicable settlement the critical questions arising from that policy. Accepting the Imperial Government's declaration of its abandonment of the policy which has so seriously menaced the good relations between the two countries, the Government of the United States will rely upon a scrupulous execution henceforth of the now altered policy of the Imperial Government, such as will remove the principal danger to an interruption of the good relations existing between the United States and Germany.

The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced

policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it cannot for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative.

LANSING.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, May 12, 1916.

MR. SECRETARY OF STATE:

A German submarine, in January, last, signaled with flags from a distance the Dutch steamer *Bandoeng* to stop. Instead of immediately complying with that summons, permissible under international law, the Dutch steamer turned at high speed on the submarine, whose commander, on the assumption warranted by the circumstances that he had to do with an English ship in disguise bent on attacking him, then opened fire on her. The steamer *Bandoeng* then stopped and sent over a boat for the examination of the ship's papers. On being asked about his captain's proceeding, the Dutch officer in command of the boat explained that he wanted to come nearer the submarine so as to shorten the visitation formalities.

The Imperial Government finds in the incident occasion to suggest to the neutral Governments that the masters of their merchant ships be given to understand that in the event of thus being stopped by German public vessels the provisions of international law must be observed to the letter and that their special attention be called to the danger incurred by turning their ships on a submarine. Thus alone can incidents of the foregoing description be avoided, the responsibility for which would exclusively lie upon the neutral shipmaster.

Accept, etc.,

BERNSTORFF.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 16, 1916.

Mr. Lansing states that the Department of State has been informed by the American Consul General at Rotterdam that Captain Barlow of the American steamer *Owego*, plying between New York and Rotterdam, arrived at the latter city on August 14 and reported that his vessel was fired at ten times in the British Channel, near the Isle of Wight, by a German submarine, but no casualties reported. Mr. Gerard is instructed to bring the matter at once formally to the attention of the Foreign Minister and request a prompt investigation of the case and a prompt statement of the findings.

Mr. Lansing adds that Mr. Gerard will perceive the importance of giving his constant attention to the case until a reply from the German Government is received.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, August 27, 1916.

Foreign Office in a note dated August 26, which was received to-day, replies as follows in regard to American steamer *Owego*:

As established by the Admiralty Staff of the Imperial Navy, a German submarine at 2:40 afternoon, on August 3, with very clear weather and smooth sea, sighted a slow-going steamer of an old type and stood by. At a distance of 6,000 meters the submarine made the steamer a signal to stop and gave two warning shots. As nothing happened on the steamer, whose flag was not recognizable but which nevertheless continued to proceed on its way, three further warning shots were fired. As the steamer neither made an "understood" signal nor stood by, fire was opened on it. After six shots (eleven shots in all) it hoisted American flag on the forestay and stopped. The distance was now 2,000 meters. The submarine signaled "send immediately boat with the papers," to which the captain of the steamer answered by hoisting his designation signal but did nothing more. When, after a further seventeen minutes, no preparations were made to launch a boat the commander of the submarine fired a shot across the steamer's bow. After ten minutes the first officer came on board the submarine and stated that the captain had not observed the submarine until then. The Imperial Government cannot give any credence to this evasive excuse, since the note of August 18 mentions

ten shots fired at the steamer, from which it is undeniably clear that the warning shots were heard by the captain of the *Owego*, but that no attention was paid to them.

Under these circumstances the Imperial Government finds itself under the necessity of emphasizing the fact that while the conduct of the commander of the submarine was in every respect correct, the behavior of the steamer *Owego* was not in accordance with the rules of international law. The captain would therefore have had only himself to blame had his conduct brought about unpleasant results.

GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 18, 1916.

Mr. Lansing, referring to Mr. Gerard's mail dispatch numbered 3920 and dated August 29, informs him that the substance of the German note of the 26th of August in the matter of the American steamer *Owego* had been submitted to the vessel's owners who informed the Department that the captain of the vessel says that, while he heard firing he never saw any submarine and never knew any shots were fired at the *Owego* or across her bow until after the submarine came in sight and then he could not understand her signals on account of there being no wind to unfurl her flags so they would stand out and disclose her nationality. The captain further states that it was and is his conception of his duty that when stopped he should wait until a boarding party from a warship came on board of his vessel to make search and not he to leave his own vessel to board any foreign warship.

Mr. Lansing states that this Government trusts that the German Imperial Government will see its way clear to warn its undersea commanders, if in fact it has not already done so, to be most particular in their efforts to make sure that their signals are understood by merchantmen before extreme measures are taken which might result in the destruction of American lives and property. In order that this may not occur this Government has informed ship owners that war submarines' signals should be answered promptly and followed.

Mr. Lansing instructs Mr. Gerard to address a note to the German foreign minister in such terms as the foregoing indicates as a reply to his note of August 26, 1916.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, September 29, 1916.

Mr. Lansing informs Mr. Gerard that the master's statement of the steamer *Owego* in his last telegram was transmitted to him in the language of the United States Steamship Company, and further informs him that he now has the master's own statement made afterward which is as follows:

"Ever since early morning of that day we heard sounds of heavy cannon coming from the direction of the French coast, which was nearer to us than the English coast, but not discernible. About 12.40 p. m., on that day I was below eating my dinner when my first mate, H. Hattfield, came to me and stated that he heard guns of smaller caliber and closer to us, but nothing could be seen. I then went on deck with said first mate, and the first thing I saw was a shot dropping in the water about 100 feet from our stern, which shot dropped directly in the wake of the vessel. I looked with the aid of glasses, as did all of the officers of the vessel, but none of us were able to discover any boat in sight. I ordered the wheel put hard starboard and the engines stopped, which was done. About 15 minutes later we made out the submarine coming slowly toward us. At that time, to my judgment, she was about one mile away. Said submarine had signals hoisted but, owing to the entire lack of wind, they were lying flat against the flagstaff instead of being carried out by the breeze and we were unable to make out what the signals were. We were laying still at that time. Then there was a shot fired which came within about four feet of the broad side of the vessel and the submarine kept coming slowly toward us. When she was about one-half mile away we were able to make out one flag and guessed at the rest. We immediately proceeded to lower a boat and I dispatched the first mate with the ship's papers. The *Owego* was displaying a large American flag on her stern and also a large American flag amidship. Her name and the letters U. S. A. were painted in white letters 6 feet long, extending nearly from bow to stern on either side. I did not know the exact number of shots which said submarine fired, I having seen but four shots which struck near the vessel. There was no shot fired across the steamer's bow as stated in the German note. The commander of the submarine informed my first mate that he had fired 11 or 12 shots at us and that was the source of my information when I gave the number of shots fired. The first mate returned from the submarine with said papers and a permit written in German and signed by the commander allowing the vessel to proceed, which she did. The boat which I sent out to the submarine was launched as quickly as possible after I discovered the submarine signal to send

same. I did not know we were being fired upon by reason of the heavy firing in the direction of the French coast, but stopped the vessel and waited as soon as it was discovered that the firing was near to us and sounded differently than what we had been hearing."

Mr. Gerard is instructed that if he can discern no objection he is permitted to submit this further statement to the Foreign Office, augmented by the information contained in Mr. Lansing's last telegram, and is also informed that this information is being forwarded to the end that he may have all the facts necessary for the information of the German Government.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 30, 1916.

Mr. Grew is informed of receipt of telegram dated October 28, 1916, from the American Consul at Queenstown, reporting that the "Furness freighter *Rowanmore*, Baltimore for Liverpool, mixed cargo, including munitions, attacked by German submarine eight forty-five a. m., twenty-sixth, one hundred forty miles west southwest of Cape Clear, after fifty minutes' attempt escape *Rowanmore's* steering gear was shot away. Master thereupon stopped and signaled submarine he was abandoning ship. Submarine three-fourths miles distant continued shelling as it came up, originally three miles off. Submarine shelled boats after latter were clear, no casualties whatever, but Americans and officers insist submarine was firing to kill until it came close up, when it forewent that. Submarine forcibly took master on board it as prisoner or hostage. Expressed perfunctory regret at situation of crew of seventy-nine men, who were in four open boats. Weather was dull, with heavy swell and light, choppy waves, wind moderate to fresh. Submarine shelled *Rowanmore* and at eleven thirty torpedoed her, but vessel did not sink until two forty p. m. *Rowanmore* had wirelessly the *Finland*, thirty miles away, warning her to keep away, also wirelessly other vessels. British Admiralty vessel came to rescue eleven forty-five a. m. Crew landed Bantry ten a. m., twenty-seventh. Seven Americans, of whom five are Fillipines, other two are native Americans, George Murphy, seven hundred forty Jefferson Avenue, Brooklyn, and Albert Sessler, forty-two Sharon Street, Boston. Both rated trimmers. Their affidavit is taken. Took statement first officer Watson, but could not complete it formally, as he had only two hours in Cork. *Rowanmore* had gross tonnage six thousand seven hundred five."

Mr. Grew is instructed to bring the matter to the attention of the

German Government for investigation and to report as soon as possible.

Chargé Grew to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, November 3, 1916.

With reference to Department's 3530, thirtieth October, and 3532, thirty-first, following is a translation of note dated to-day received from Foreign Office at ten thirty this evening:

"The undersigned has the honor to reply as follows to the American Chargé d'Affaires, Mr. Grew, with reference to the two notes of the second instant relative to the sinking of the British steamers *Rowanmore* and *Marina*¹ by German submarines:

"The Imperial Government is not yet in a position to give a positive statement regarding the cases in question, since the submarines which come into question for the sinking are still on their voyage without it having yet been possible to get into communication with them. As soon as they shall have returned an exact investigation of their procedure will be instituted and immediately upon its completion the result will be communicated to the American Embassy.

"The Imperial Government, however, wishes even now to express the conviction that the proceedings connected with the sinking of the two ships could not have occurred as the informants of the American Government state. For the commanders of the German submarines operating against England have the strictest and most sharply controlled instructions to keep carefully within the limits of the rules the observance of which the Imperial Government promised in its note of May fourth, 1916, and which since then have been observed by the German submarines with the greatest exactness.

"The undersigned avails himself of this occasion, et cetera.

"(Signed) ZIMMERMANN."

GREW.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 18, 1916.

Mr. Lansing states that the Department has been advised of the torpedoing without warning of the British ship *Sebek*, with Americans aboard, bound from Liverpool to Alexandria, while ten miles east of Malta, on October 12.

Also the Department is advised that the ship *Delta*, of Norwegian

¹ Not printed.

registry, bound from Naples to Wales, in ballast, and on which there were Americans, was sunk by cannon shot on October 31, fifty-five miles off Cape Palos, Spain, by a German submarine.

Mr. Grew is instructed to bring to the attention of the German Government the above cases in which it appears the lives of American citizens have been jeopardized by German submarines, and request an immediate investigation and report.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 18, 1916.

Mr. Lansing states that the American steamship *Lanao*, unarmed, of Philippine registry, which was en route from Saigon to Havre, laden with rice, was sunk on October 28 by a German submarine while off Cape Vincent, Portugal, about thirty miles. Mr. Gerard is instructed to bring this case to the German Government's immediate attention, with the request that it be investigated and a prompt report made concerning the sinking of an American vessel.

The Secretary of State to Chargé Grew.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 18, 1916.

Mr. Grew is advised that the Department has been informed that the steamer *Arabia* of the P and O line was torpedoed without warning by a German or Austrian submarine in the Mediterranean on November 6, while on her homeward voyage. The ship had on board some 480 passengers, including women and children to the number of about 170. The weather, it appears, was fine, and the submarine could have seen women and children on the deck of the ship before dispatching the torpedo. This Government finds itself unable to square this disaster with the assurance of the German Government of May 4, 1916, which the Government of the United States understands binds both Central Powers.

Mr. Grew is instructed to bring this case to the attention of the German Government and to request an immediate investigation and a prompt report.

¹ Same, *mutatis mutandis*, to the Embassy at Vienna.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 18, 1916.

Mr. Lansing informs Mr. Grew that the Department is advised that the American steamer *Columbian*, bound to Genoa from St. Nazaire in ballast, was sunk on November 7 by German submarine U-49 about 50 miles northwest of Cape Ortegal. Apparently the crew was saved.

Mr. Grew is instructed to bring to the immediate attention of the German Government the case of the *Columbian*, with a request for an investigation and prompt report.

*Chargé Grew to the Secretary of State.*AMERICAN EMBASSY,
Berlin, November 21, 1916.

SIR: With reference to my dispatches Nos. 4529¹ of November 4, 1916, and 4532¹ of November 7, 1916, I have the honor to inclose herewith, in order to complete the files of the Department, a copy and translation of the Note from the Imperial Foreign Office, dated November 19, 1916, replying to the Embassy's inquiry in regard to the sinking of the steamer *Rowanmore*. The text of this Note was cabled to the Department in my telegram No. 4622¹ of November 20, 1916.

I have, etc.,

J. C. GREW.

[Inclosure—Translation.]FOREIGN OFFICE,
Berlin, November 19, 1916.

The undersigned has the honor to inform Mr. Joseph Clark Grew, Chargé d'Affaires of the United States of America, in reply to the notes of the 2nd and 7th instant, and in supplement to the note of the Foreign Office of the 3rd instant that the investigation of the sinking of the English steamer *Rowanmore*, conducted by the Admiralty Staff of the Imperial German Navy has led to the following result:

At about 9.30 o'clock on the morning of October 26th last, a steamer was sighted pointing eastward; there was a light westerly wind and a light sea therefrom but a heavy westward Atlantic roll. Upon approaching it was seen to be a question of an English steamer.

¹ Not printed.

The steamer was not flying any flag. At a distance of from 5 to 6 thousand meters a shot of warning was fired; the steamer now turned and ran away at high speed, always keeping the submarine to the starboard aft. The submarine took up the pursuit and kept the steamer under gunfire to prevent flight. It was observed during the pursuit that the steamer gave out wireless signals as to its position and the pursuit by the submarine in order to attract help.

At about 11.20 o'clock it was perceived that the speed of the steamer was decreasing and following this that boats were lowered. Hereupon the firing was immediately stopped. It is a matter of course that no shots were fired at the lifeboats. This is also confirmed by the fact that nobody in the boats was injured.

The submarine was now still about 2,000 meters away from the steamer and observed that a signal was hoisted on the steamer which did not however blow clear and therefore could not be made out. It was not until later that it was learned from the captain that he had caused the signal "I surrender the ship" to be hoisted. According to his own testimony the signal was hoisted furled by an excited seaman so that it could not be made out.

Upon approaching closer three large boats containing the crew were found and a small gig in which the captain of the steamer sat alone with only one scull; he had been deserted by the crew when the ship was struck by several shells and as the last man on board had lowered this boat alone; he was taken from it on board the submarine. He there stated "The steamer *Rowanmore* was struck 10 times, the last shot hitting the stern and apparently damaging the screw." No one of the crew was injured in the shooting.

It was then ascertained that the *Rowanmore* was on a voyage from Baltimore to Liverpool. The ship was sunk. The position was latitude 51 degrees 25 minutes north, longitude 12 degrees 50 minutes west.

In the meantime a cloud of smoke came into sight which proved to be the column of smoke from a destroyer, which was rapidly coming towards the submarine. The safety of the crew of the steamer was thus guaranteed. In view of the destroyer the submarine submerged and made off.

The German Government begs to point out on this occasion that the difficult situation in which some American citizens were involved during this occurrence is not attributable to the action of the submarine, which kept entirely within the bounds of international law, but to the attitude of the English ship, which persistently attempted to escape until it had lost its mobility.

The undersigned avails himself of this opportunity to renew to the Chargé d'Affaires of the United States of America the assurances of his distinguished consideration.

(sigd.)

v. JAGOW.

Chargé Grew to the Secretary of State.

AMERICAN EMBASSY,
Berlin, November 27, 1916.

The following note relative to the sinking of the *Marina* has just been received:

“FOREIGN OFFICE,
“Berlin, November 25, 1916.

“The undersigned has the honor to inform Mr. Joseph Clark Grew, Chargé d’Affaires of the United States of America, in supplement to his note of the third instant and in reply to the esteemed note of the second instant,¹ Foreign Office Number 13985, that the investigation of the sinking of the British steamer *Marina* conducted by the German Government has led to the following results:

At four fifty o’clock on the afternoon of October 28th last, a German submarine encountered a steamer about twenty nautical miles from the Skelligs in sight of land; steamer was painted gray, displayed no flag, and had wooden super-structure on deck for transporting horses. The commander of the submarine considered this steamer, which was identical with the *Marina*, a horse transport ship in the service of the British Government which he could attack forthwith according to international law as an auxiliary warship. He was strengthened in this view by his activity in the Mediterranean where he had often observed ships of this kind and ascertained that they were used as British transport steamers in the Dardanelles operations. In these circumstances he saw nothing objectionable in torpedoing the *Marina* without warning.

“The assumption of the commander that he was concerned with an enemy transport seems correct since the *Marina*, as is known to the German Government from reliable sources, was actually used as a horse transport steamer in the service of the British Government. Should this assumption prove however to be a wrong one according to the investigations of the American Government, the action of the commander would be attributable to a regrettable mistake and not have been in accordance with his instructions; in this event the German Government would not hesitate to draw the appropriate consequences. The American Government is therefore requested further to communicate the result of its official investigations in this direction.

“The undersigned requests the Chargé d’Affaires to bring the above to the knowledge of the American Government and avails himself et cetera,

“(Signed) ZIMMERMANN.”
GREW.

¹ Not printed.

Chargé Grew to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, December 4, 1916.

The following note relative to the sinking of the *Arabia* has just been received:

“Foreign Office, Berlin, December 4, 1916.

“The undersigned has the honor to inform Mr. Grew, Chargé d’Affaires of the United States of America, in reply to the note of the 21st ultimo, Foreign Office number 14401, that the investigation conducted by the German Government concerning the sinking of the British steamer *Arabia* has led to the following results:

“On the morning of November 6 a German submarine encountered a large steamer coming from the Cerigo Straits, one hundred nautical miles west of the Island of Cerigo; the steamer was painted black and had black superstructures and not, as is otherwise the case with the P and O Line superstructures, a light color; the steamer, which was identical with the *Arabia*, was not traveling on the route regularly used by the passenger steamers between Port Said and Malta, as is made plain on the inclosed map,¹ but was taking a zigzag course towards the west one hundred twenty nautical miles north of that route; this course, on which the submarine had passed three similar steamers at the same spot on the same morning, leads from the Aegean to Malta, so that the *Arabia* was moving on the transport route Cerigo-Malta used solely for war purposes, according to the experiences until now. The commander of the submarine further ascertained that there were large batches of Chinese and other colored persons in their national costumes on board the steamer; he considered them to be workmen soldiers, such as are used in great numbers behind the front by the enemies of Germany; in spite of the clear weather and careful observation he did not perceive any women and children.

“In these circumstances the commander of the submarine was convinced that in the case of this steamer he was concerned with a transport ship for troops in the service of the British Government, which is to be considered as an auxiliary warship according to international law, and can therefore be treated like a warship. He accordingly considered himself justified in attacking the steamer without delay and sank it.

“Should the American Government give the official data showing that the *Arabia* was at the time of the torpedoing an ordinary passenger steamer, the action of the Commander would not have been in accordance with the instructions given him, since these instructions are now as before in agreement with the assurances of the German note of May, nineteen sixteen. This would then be a case of a regret-

¹ Not printed.

table mistake, from which the German Government would promptly draw the appropriate consequences.

"The undersigned requests the Chargé d'Affaires to bring the above to the knowledge of the American Government, and avails himself.

"(Signed) ZIMMERMANN."
GREW.

Chargé Grew to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, December 8, 1916.

The following note with regard to the sinking of the *Sebek* has just been received:

"Foreign Office, Berlin, December 6, 1916. The undersigned has the honor to reply as follows to the note of Mr. Grew, Chargé d'Affaires of the United States of America, dated the twenty-first ultimo. Foreign Office No. 14221, relative to the sinking of the British vessel *Sebek* by a German submarine.

"According to the investigations of the German Naval authorities a German submarine attacked without warning and sank on October twelfth last, close to the war-port of La Valeta, Malta, a ship which was under way with lights smothered and without position lanterns, and which therefore had to be considered as a warship by the German commander.

"A completely darkened ship which contrary to the international provisions relative to the carrying of lights at sea displays no streamer (?) and a position of lights thereby characterizes itself as a warship, in the war area at any rate or still more in the neighborhood of a war-port as in the present case. Should then the darkened ship sunk off Malta actually have been identical with the British steamer *Sebek* the blame for jeopardizing lives of the Americans hired on the *Sebek* attached solely to the captain who, in order to evade measures of prize by the German cruisers recognized by international laws, took upon himself the danger involved in neglecting, contrary to international law the international provisions relative to the carrying of lights.

"The undersigned requests that the above be communicated to the American Government and avails himself of the opportunity to the Chargé d'Affaires, et cetera.

(Signed) ZIMMERMANN."
GREW.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 9, 1916.

Mr. Lansing informs Mr. Grew that the Department is advised that the British steamship *Barbara*, which had Americans on board, was sunk in the British Channel by a German submarine on October 20. The ship was laden with coal and bound to Hartlepool from Philadelphia.

Mr. Grew is instructed to make request of the Foreign Minister for a prompt investigation and report.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 9, 1916.

Mr. Lansing informs Mr. Grew that the Department is advised that the Norwegian steamer *Trippel* bound from Baltimore to Genoa, which had aboard American citizens, was sunk on November 11 by a German submarine 18 miles off Villarico.

Mr. Grew is instructed to bring this case to the attention of the Foreign Minister and request a prompt investigation and report.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 9, 1916.

Mr. Lansing informs Mr. Grew that the Department is advised that the Norwegian ship *Lokken*, which had American citizens aboard, was sunk by a submarine whose nationality is unknown, by gunfire while en route to Phillipville, near Algiers, from Cardiff, with a cargo of coal, in the middle of the Bay of Biscay, about 180 miles from shore on November 11.

Mr. Grew is directed to bring this case to the attention of the Foreign Minister, and request a prompt investigation and report.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 9, 1916.

Mr. Lansing informs Mr. Grew that the Department has been advised that the British steamer *Trevarrick*, which had Americans on board, was sunk 90 miles off Ouessant Point, on November 16, by a German submarine. The ship was grain laden, bound from Buenos Ayres to Hull.

Mr. Grew is instructed to request of the Foreign Minister a prompt investigation and report.

Chargé Grew to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, December 11, 1916.

The following note relative to the sinking of the *Lanao* has just been received:

“Foreign Office, Berlin, December 9, 1916.

“The undersigned has the honor to reply as follows to the note of Mr. Grew, Chargé d’Affaires of the United States of America, dated the 21st ultimo: Foreign Office Number 14420. Relative to the sinking of the steamer *Lanao* by a German submarine.

“On October 28th last a German submarine encountered the steamer *Lanao* on the way to Le Havre and captured it as a prize because it was carrying contraband to the enemy. Since the submarine was unable to conduct the *Lanao* into a German or Allied port without exposing itself to the danger of sinking, it sank the steamer after it had taken the crew on board. The crew was then sent on board the Norwegian steamer *Tromp*, which was just at the time in sight.

“The steamer *Lanao* belonged originally to the Lindlay Millar Steamship Company, of Manila; it was, however, sold in July, 1916, to the shipping firm of Hannevig Brothers, of London, and sailed since under the English flag. The owners of the firm of Hannevig Brothers are the sons of the shipowner Christian Hannevig, of Borre, Norway, and are, like him, Norwegian subjects.

“The undersigned request Mr. Grew, the Chargé d’Affaires, to communicate the above to the Government of the United States, and avails himself, etc.,

ZIMMERMANN.”

GREW.

The Secretary of State to Chargé Grew.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 12, 1916.

Mr. Lansing states that the United States Government has made inquiry of the Government of Great Britain concerning the status of the vessel *Marina* and Lord Grey states in reply as to whether the *Marina* was in the British Government's service at the time of her sinking that the *Marina* was neither chartered nor requisitioned by the Government of Great Britain. She was on the service of her owners, running on her ordinary berth, and entirely under her owners' orders and control. The *Marina*, on her voyages from America, carried for the Government of Great Britain a number of animals at a fixed rate per head. These animals were carried entirely at the risk and responsibility of the shipowners, the only difference between these animals and any other cargo carried being the fact that they were consigned to the British Government.

Mr. Grew is directed to bring the foregoing to the immediate attention of the Minister of Foreign Affairs and he is informed that further inquiries have been made as to whether the *Marina* was ever in the service of the British Government and, if so, when and whether it was customary for the *Marina* in the past to be in the British Government's service on voyages from the United States and in her owners' service on returning voyages. When replies to these inquiries are received they will be transmitted to Mr. Grew.

Chargé Grew to the Secretary of State.

AMERICAN EMBASSY,
Berlin, December 18, 1916.

SIR: In order to complete the files of the Department, I have the honor to transmit herewith a copy and translation of the note from the Foreign Office, No. A. 33392, of December 16, 1916, relative to the sinking of the American steamer *Columbian*, the text of which was telegraphed to the Department to-day in my No. 4744.

I have, etc.,

J. C. GREW.

[Inclosure—Translation.]

The German Minister for Foreign Affairs to Chargé Grew.

FOREIGN OFFICE,
Berlin, 16 December, 1916.

The undersigned has the honor to make the following reply to the note of Mr. Grew, Chargé d'Affaires of the United States of America, dated the 21st ultimo (F. O. No. 14402) relative to the sinking of the American steamer *Columbian* by a German submarine.

According to the investigations of the German naval authorities the *Columbian* was stopped by a German submarine at 2.30 o'clock on the afternoon of November 7th, 1916, in 44 degrees latitude north and 8 degrees 44 minutes longitude west. The weather was clear for 3 nautical miles, but wind and sea were rather heavy. After the warning shot the flag signal "Send your papers on board" was given. The *Columbian* then hoisted the signal "I cannot make out your flag." This answer seemed proper, since as a result of the position of the two vessels in relation to each other and of the direction of the wind the flags blew out towards the steamer. The submarine then approached closer under water, looked over the steamer, which had been stopped, more carefully through the periscope and then came to the surface close to her. It was ascertained while the submarine was traveling submerged that the steamer carried the American flag and markings and bore the name *Columbian*, New York; and also that she had wireless telegraphy apparatus. According to her course the steamer came from an English or a French port and, to judge from the empty wooden superstructures on her deck, appeared to have delivered there horses, i. e., absolute contraband. On account of the difficulty of having a boat sent across in such a sea the commander of the submarine dispensed with the examination of the papers, signaled to the steamer "You are released" and left her traveling on the surface. The steamer resumed her old course.

Soon afterwards it was reported to the commander of the submarine from his wireless station that since emerging wireless messages of the American steamer had been intercepted containing in open English, in addition to the distress signal S. O. S., reports concerning the submarine, such as "Submarine cruising around us" and the position of the submarine at the time, "Position so and so." These wireless messages caused the commander to turn about and stop the steamer a second time. Notwithstanding the sea and the wind had become still heavier, he succeeded in overhauling the *Columbian*, which was making off, and forcing her by means of signals to follow the submarine and to use her wireless apparatus at a lower intensity only and solely for communication with the submarine.

The submarine then traveled during the night in a westward direction with the *Columbian* and the Norwegian steamer *Balto*, which had been stopped previously and furnished with a prize crew, and ex-

amined the ship's papers of the *Columbian* the next morning, the weather being better. After the examination the commander decided to sink the ship for unneutral service. The crew was taken over in its own boats to the steamer *Balto* and later put on board the Norwegian steamer *Väringen*, together with the crew of the *Balto*. The *Väringen* received orders to take all the crews into the Spanish port of Camarinas, and executed these orders. The commander of the submarine kept the captain of the *Columbian* with him on board for the time being, but sent him ashore on November 10th, in the Bay of Camarinas.

According to the ascertainment of the facts as given above, the action of the commander of the submarine appears completely justified. For, by means of her wireless reports as to the position of the submarine, which were plainly intended to attract enemy naval forces, the *Columbian* had voluntarily placed herself in the service of the submarine-defense forces of the enemy and had, in so doing, taken direct part in hostilities. Such an act was bound to clothe the vessel with the character of an enemy merchantman, pursuant to the principles of international law (See also article 46, paragraph 1, number 1, of the Declaration of London), so that she could be captured and sunk as such a vessel. The sinking itself took place after the ship's papers had been secured and the human lives saved.

For the rest, if the Government of the United States asserts in its instructions to the Embassy at Berlin that the *Columbian* was traveling in ballast, it is plainly incorrectly informed. The report of Captain Curtis, in the *London Times* of November 15th, states that the vessel had a cargo of 9,000 tons when she encountered the submarine.

The German commander then ascertained, upon examining the ship's papers, that the *Columbian* was carrying 4,900 tons of steel plates and in addition a small cargo of other goods, including copper, potash, soda, motor-cycles, and parts of machines. According to the captain's version, the steel plates consisted of steel for shells, were therefore intermediate products for the manufacture of shells, and thus absolute contraband, pursuant to Article 21, number 2, of the German prize ordinance; the cargo of copper was likewise absolute contraband, pursuant to Article 21, number 38, of the prize ordinance. Since the ship was bound to Genoa, well known to be an Italian naval and military fortress, and a basis of operations and supplies for the Italian land and naval forces, there was a legal presumption of hostile destination attaching to that part of the cargo also which, like the motor-cycles, belonged only to conditional contraband.

The report of the commander of the submarine on the sinking of the *Columbian* has been transmitted to the competent Imperial Prize Court at Hamburg, which will decide on the legality of the measures of the commander. Thus it would appear that the American parties interested in ship and cargo should be advised to advance the rights to which they lay claim before this Prize Court within the time limits and in the form prescribed by the German Code of Prize Procedure.

The Undersigned requests Mr. Grew, Chargé d'Affaires of the United States of America, to inform the Government of the United

States of the above, and avails himself of the occasion to renew to him the assurance of his most distinguished consideration.

ZIMMERMANN.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 20, 1916.

Mr. Grew is informed that in further response to the inquiries of the United States Government concerning the status of the vessel *Marina* the British Minister for Foreign Affairs states that the British Government were in no way interested in the voyage of the *Marina* at the time she was attacked. However, the *Marina* on her return voyage would have brought a deck load of horses for the British Government, but these would have made but a small part of her cargo. On each voyage from the United States to Great Britain from October, 1916, to the last voyage from the United States before her sinking the *Marina* was utilized for this purpose. The British Government did not employ her at any time in any other manner. In addition it is stated that the *Marina* was at no time in the British Government's service in any sense in which the vessel was not in the service of any other regular shippers of cargoes carried by her.

An explanation of precise method of employment is contained in Viscount Grey's note of December sixth to Ambassador Page, of which you were informed in Department's telegram of December twelfth.

Mr. Grew is directed to bring the foregoing to the attention of the German Government immediately.

Consul Washington to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Liverpool, December 22, 1916.

Captain John Trainor, of Eighty-three Federal Street, Portland, Maine, Master American five masted Schooner *Rebecca Palmer*, of New York, affirms he left Savannah, Georgia, November ninth; that at four-twenty afternoon of December fourteenth, when seventy miles west southwest Fastnet, making about two knots an hour in a heavy sea, Captain observed what appeared like a boat sail about four miles to the north on his beam; this proved to be a submarine, as a shot was fired at the ship. Captain ordered mate to go below for flag and at once hove to his vessel. Another shot followed in about two minutes. When mate was below one of these shots, the captain is uncertain which, struck bow, doing about two hundred dollars damage. The

vessel at this time showed no flag. There was an American flag painted forward of amidships on each side, about eight by twelve feet. This could not have been seen at that distance by submarine in captain's opinion. The flag was then hoisted, and in about half an hour the submarine came within two hundred yards and, as it was dark, signaled with Morse lights to send boat. Captain had previously made out German colors on submarine. Captain lowered motor launch, but submarine had then disappeared. Captain proceeded toward motor launch, which was thereby lost, owing to heavy weather; vessel in stream. Hope affidavits mate and helmsman to-morrow.

WASHINGTON.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, December 27, 1916.

The following note relative to the sinking of the Norwegian ship *Delto* has just been received:

"Foreign Office, Berlin, December twenty-fifth, nineteen sixteen. The undersigned has the honor to inform His Excellency, Mr. Gerard, Ambassador of the United States of America, in reply to the note of Mr. J. C. Grew, dated the twenty-first ultimo, Foreign Office number fourteen forty-two, relative to the sinking of the Norwegian ship *Delto* by a German submarine as follows:

"According to the investigations of the German Naval authorities the Norwegian ship *Delto* not *Delta*, which was chartered by the Italian Government to carry coal, was stopped on October thirteenth last about forty nautical miles southeast of Cape Palos and sunk by artillery fire on account of unneutral service to the enemy (?), also Article forty-six, paragraph one, number three of the Declaration of London, after the German commander had taken the ship's papers on board and caused the crew to enter the lifeboats. The crew was given half an hour to leave the ship; the weather was good and very clear, the wind was very light. The boats had a comparatively short way to go to reach the Spanish coast, so that there was full security for saving the crew.

"The presumption expressed by the American Government that the lives of American citizens on board the *Delto* were jeopardized is therefore not correct.

"The undersigned requests that the above [be?] communicated to the American Government and avails himself of the (* * *)¹ to renew to the Ambassador the assurance of his most distinguished consideration.

"(Signed) ZIMMERMANN."
GERARD.

¹ Apparent omission.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, January 11, 1917.

The following note relative to the sinking of the Norwegian steamer *Trippel* has just been received:

"Foreign Office, Berlin, January 11, 1917.

"The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of Mr. J. C. Grew, dated the twelfth ultimo, Foreign Office Number fourteen eighty-four nine, relative to the sinking of the Norwegian steamer *Trippel* by a German submarine, as follows:

"According to the investigation of the German naval authorities the Norwegian steamer *Trippel* was stopped by a German submarine on November 10, 1916, and captured after it was ascertained that her cargo consisted of steel and iron for the Italian war command with Genoa as the port of destination. Since it was impossible under the given circumstances to bring the steamer into a German port she was sunk. Crew had first been given sufficient time to leave the steamer; the weather was very fine, the Spanish coast scarcely ten miles distant so that there was full security for the rescuing of the craft.

"The undersigned requests that the above may be communicated to the American Government and avails himself of the opportunity to renew, etc. (Signed) Minister for Foreign Affairs."

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, January 12, 1917.

The following note relative to the sinking of the Norwegian steamer *Lokken* has just been received:

"FOREIGN OFFICE,
"Berlin, January eleven, 1917.

"The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of Mr. J. C. Grew, dated December 11 last, Foreign Office No. 14831, on the subject of the sinking of the Norwegian steamer *Lokken* by a submarine of unknown nationality as follows:

"The investigation conducted by the German naval authorities has shown that the *Lokken* was stopped by a German submarine on November 11, 1916. The steamer had absolute contraband on board—namely, coal for the Algerian State railways. She was therefore captured and sunk, since it was not feasible under the given circum-

stances to take her into a German port. Care was taken for the rescue of the crew by the submarine taking the two boats in tow and conducting them to a steamer, which took the men on board.

"The undersigned requests that the above may be communicated to the American Government, and avails himself of the opportunity to renew to the Ambassador the assurances of his most distinguished consideration.

ZIMMERMANN."

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, January 15, 1917.

The following note relative to the sinking of the English steamer *Barbara* has just been received:

"Foreign Office, Berlin, January 14, 1917.

"The undersigned has the honor to inform His Excellency Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of Mr. J. C. Grew dated December eleven last, Foreign Office No. 14836, on the sinking of the steamer *Barbara* as follows:

"According to the investigations of the German naval authorities the steamer *Barbara* was stopped by a German submarine with a shot of warning on October 20, 1916, a few miles south of the Isle of Wight; the crew then immediately entered the boats. After the commander had convinced himself that the crew had been taken on board of the Spanish steamer *Victor Chavarri* and was thus in a place of safety he sank the vessel.

"The undersigned requests that the above may be communicated to the American Government and avails himself, et cetera.

"(Signed) ZIMMERMANN."

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, January 29, 1917.

Following note received from the Foreign Office:

"FOREIGN OFFICE
Berlin, January 26, 1917.

"The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in

reply to the note of Mr. J. C. Grew, dated December eleven, 1916, Foreign Office number 14829, relative to the sinking of the British steamer *Trevarrica* by a German submarine, as follows:

"According to the facts as ascertained by the German naval authorities, the British steamer *Trevarraca*, not '*Trevarrica*,' was stopped by a German submarine on the morning of November sixteen, 1916; the crew left the steamer without further delay when the signal to stop was given and sailed away from the steamer in their boats. The vessel was then sunk as an enemy vessel after it had been searched.

"The undersigned requests that the above may be brought to the cognizance of the American Government, and avails himself, et cetera.

"(Signed) STUMM."
GERARD.

PART V.

ARMED MERCHANT VESSELS.

*The Acting Secretary of State to the German Ambassador.*¹

DEPARTMENT OF STATE,
Washington, September 19, 1914.

DEAR MR. AMBASSADOR:

I am inclosing for your information two memoranda, which the Department has issued to-day and which define the general rules which this Government will follow in dealing with cases involving the status of armed merchant vessels visiting American ports, and with cases of merchant vessels suspected of carrying supplies to belligerent war-ships from American ports.

I am, etc.,

ROBERT LANSING.

[Inclosure 1.]

THE STATUS OF ARMED MERCHANT VESSELS.

A. A merchant vessel of belligerent nationality may carry an armament and ammunition for the sole purpose of defense without acquiring the character of a ship of war.

B. The presence of an armament and ammunition on board a merchant vessel creates a presumption that the armament is for offen-

¹ Same to the British, French, and Japanese Ambassadors in Washington, and the Belgian Minister.

sive purposes, but the owners or agents may overcome this presumption by evidence showing that the vessel carries armament solely for defense.

C. Evidence necessary to establish the fact that the armament is solely for defense and will not be used offensively, whether the armament be mounted or stowed below, must be presented in each case independently at an official investigation. The result of the investigation must show conclusively that the armament is not intended for, and will not be used in, offensive operations.

Indications that the armament will not be used offensively are:

1. That the caliber of the guns carried does not exceed six inches.
2. That the guns and small arms carried are few in number.
3. That no guns are mounted on the forward part of the vessel.
4. That the quantity of ammunition carried is small.
5. That the vessel is manned by its usual crew, and the officers are the same as those on board before war was declared.
6. That the vessel intends to and actually does clear for a port lying in its usual trade route, or a port indicating its purpose to continue in the same trade in which it was engaged before war was declared.

7. That the vessel takes on board fuel and supplies sufficient only to carry it to its port of destination, or the same quantity substantially which it has been accustomed to take for a voyage before war was declared.

8. That the cargo of the vessel consists of articles of commerce unsuited for the use of a ship of war in operations against an enemy.

9. That the vessel carries passengers who are as a whole unfitted to enter the military or naval service of the belligerent whose flag the vessel flies, or of any of its allies, and particularly if the passenger list includes women and children.

10. That the speed of the ship is slow.

D. Port authorities, on the arrival in a port of the United States of an armed vessel of belligerent nationality, claiming to be a merchant vessel, should immediately investigate and report to Washington on the foregoing indications as to the intended use of the armament, in order that it may be determined whether the evidence is sufficient to remove the presumption that the vessel is, and should be treated as, a ship of war. Clearance will not be granted until authorized from Washington, and the master will be so informed upon arrival.

E. The conversion of a merchant vessel into a ship of war is a question of fact which is to be established by direct or circumstantial evidence of intention to use the vessel as a ship of war.

DEPARTMENT OF STATE,

September 19, 1914.

[Inclosure 2¹]

¹ Inclosure No. 2 printed under section "Supplies for Belligerent Vessels," p. 138.

The Secretary of State to Ambassador Gerard.

DEPARTMENT OF STATE,
Washington, September 29, 1914.

SIR: I transmit herewith, for the information of the German Government, copies of two memoranda¹ issued by this Department which define the general rules which the Government of the United States will follow in dealing with cases involving the status of armed merchant vessels visiting American ports, and with cases of merchant vessels suspected of carrying supplies to belligerent warships from American ports.

Copies of these memoranda were also sent to the German Ambassador here, and it is at his request that the copies herewith are sent for communication to his Government.

I am, etc.,

For the Secretary of State,
ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, October 15, 1914, 7 p. m.

Mr. Gerard transmits the following memorandum which he says he has received from the German Foreign Office:

An official notice appearing in the *Westminster Gazette* of September 21, 1914, states that the Department of State at Washington has ruled that ships of belligerent nations when equipped with ammunition and armament shall be treated nevertheless, while in American ports, as merchant ships, provided the armament serves for defensive purposes only. This ruling wholly fails to comply with the principles of neutrality. The equipment of British merchant vessels with artillery is for the purpose of making armed resistance against German cruisers. Resistance of this sort is contrary to international law, because in a military sense a merchant vessel is not permitted to defend itself against a war vessel, an act of resistance giving the warship (* * *)² with crew and passengers. It is a question whether or not ships thus armed should be admitted into ports of a neutral country at all. Such ships, in any event, should not receive any

¹ See pp. 116-117, 138.

² Omission.

better treatment in neutral ports than a regular warship, and should be subject at least to the rules issued by neutral nations restricting the stay of a warship. If the Government of the United States considers that it fulfills its duty as a neutral nation by confining the admission of armed merchant ships to such ships as are equipped for defensive purposes only, it is pointed out that so far as determining the warlike character of a ship is concerned, the distinction between the defensive and offensive is irrelevant. The destination of a ship for use of any kind in war is conclusive, and restrictions as to the extent of armament afford no guarantee that ships armed for defensive purposes only will not be used for offensive purposes under certain circumstances.

The Acting Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 7, 1914.

Your 515, October 15. The Government of the United States is obliged to dissent from the views of the German Government as expressed in your telegram in regard to the treatment to be accorded armed merchant vessels of belligerent nationality in neutral ports. The practice of a majority of nations and the consensus of opinion by the leading authorities on international law, including many German writers, support the proposition that merchant vessels may arm for defense without losing their private character and that they may employ such armament against hostile attack without contravening the principles of international law.

The purpose of an armament on a merchant vessel is to be determined by various circumstances, among which are the number and position of the guns on the vessel, the quantity of ammunition and fuel, the number and sex of the passengers, the nature of the cargo, etc. Tested by evidence of this character the question as to whether an armament on a merchant vessel is intended solely for defensive purposes may be readily answered and the neutral government should regulate its treatment of the vessel in accordance with the intended use of the armament.

This Government considers that in permitting a private vessel having a general cargo, a customary amount of fuel, an average crew, and passengers of both sexes on board, and carrying a small armament and a small amount of ammunition, to enjoy the hospitality of an American port as a merchant vessel, it is in no way violating its duty as a neutral. Nevertheless it is not unmindful of the fact that the circumstances of a particular case may be such as to cause embarrassment and possible controversy as to the character of an armed

private vessel visiting its ports. Recognizing, therefore, the desirability of avoiding a ground of complaint this Government, as soon as a case arose, while frankly admitting the right of a merchant vessel to carry a defensive armament, expressed its disapprobation of a practice which compelled it to pass upon a vessel's intended use, which opinion if proven subsequently to be erroneous might constitute a ground for a charge of unneutral conduct.

As a result of these representations no merchant vessels with armaments have visited the ports of the United States since the 10th of September. In fact from the beginning of the European war but two armed private vessels have entered or cleared from ports of this country and as to these vessels their character as merchant vessels was conclusively established.

Please bring the foregoing to the attention of the German Government and in doing so express the hope that they will also prevent their merchant vessels from entering the ports of the United States carrying armaments even for defensive purposes though they may possess the right to do so by the rules of international law.

LANSING.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, February 14, 1916.

SIR: I have the honor to transmit to you herewith three copies of the memorandum of the Imperial German Government on the treatment of armed merchantmen, dated February 8, 1916, which formed the subject of my telegrams No. 3467, of the 9th, and No. 3474, of the 10th instant. There are likewise inclosed a translation of the text of the memorandum and a copy and translation of the note verbale from the Imperial Foreign Office, dated February 10, 1916, with which the memorandum was transmitted to me.

I have, etc.,

JAMES W. GERARD.

[Inclosure 1—Translation.]

FOREIGN OFFICE,
Berlin, February 10, 1916.

NOTE VERBALE.

The Foreign Office has the honor to transmit herewith to the Embassy of the United States of America three copies of a memoran-

dum of the Imperial German Government on the treatment of armed merchantmen, with inclosures, and to request that the Embassy be good enough to bring the essential contents of the memorandum to the knowledge of its Government by telegraph, informing it at the time that the order to the German naval forces mentioned in Section IV, No. 1, of the memorandum will not be carried into effect until the 29th instant, in the interest of neutrals already on board armed merchant vessels.

[Inclosure 2—Translation.]

MEMORANDUM OF THE IMPERIAL GERMAN GOVERNMENT ON THE
TREATMENT OF ARMED MERCHANTMEN.

I.

1. Even before the outbreak of the present war the British Government had given English shipping companies the opportunity to arm their merchant vessels with guns. On March 26, 1913, Winston Churchill, then First Lord of the Admiralty, made the declaration in the British Parliament (Exhibit 1) that the Admiralty had called upon the shipowners to arm a number of first-class liners for protection against danger menaced in certain cases by fast auxiliary cruisers of other powers; the liners were not, however, to assume the character of auxiliary cruisers themselves. The Government desired to place at the disposal of the shipowners the necessary guns, sufficient ammunition, and suitable personnel for the training of the gun crews.

2. The English shipowners have readily responded to the call of the Admiralty. Thus Sir Owen Philipps, president of the Royal Mail Steam Packet Company, was able to inform the stockholders of his company in May, 1913, that the larger steamers of the company were equipped with guns; furthermore, the British Admiralty published in January, 1914, a list, according to which twenty-nine steamers of various English lines carried guns aft.

3. As a matter of fact, German cruisers ascertained soon after the outbreak of the war that English liners were armed. For example, the steamer *La Correntina*, of the Houlder Line, of Liverpool, which was captured by the German auxiliary cruiser *Kronprinz Friedrich Wilhelm* on October 7, 1914, had two 4.7-inch guns aft. On February 1, 1915, a German submarine was shelled in the Channel by an English yacht.

II.

1. With regard to the legal character of armed merchantmen in international law, the British Government has taken the position in respect of its own merchantmen that such vessels retain the char-

acter of peaceable merchant vessels as long as they carry the arms for defensive purposes only. In accordance with this, the British Ambassador at Washington, in a note dated August 25, 1914 (Exhibit 2), gave the American Government the fullest assurances that British merchant vessels were never armed for purposes of attack, but solely for defense, and that they consequently never fire unless first fired upon. On the other hand, the British Government set up the principle for armed vessels of other flags that they are to be treated as war vessels. Number 1 of Order 1 of the Prize Court Rules, promulgated by the Order in Council of August 5, 1914, expressly provides "ship of war shall include armed ship."

2. The German Government has no doubt that a merchantman assumes a warlike character by armament with guns, regardless of whether the guns are intended to serve for defense or attack. It considers any warlike activity of an enemy merchantman contrary to international law, although it accords consideration to the opposite view by treating the crew of such a vessel not as pirates but as belligerents. The details of its position are set forth in the memorandum on the treatment of armed merchantmen in neutral ports (Exhibit 3) communicated to the American Government in October, 1914, the contents of which were likewise communicated to other neutral powers.

3. Some of the neutral powers have accepted the position of the British Government and therefore permitted armed merchantmen of the belligerent powers to stay in their ports and shipyards without the restrictions which they had imposed on ships of war through their neutrality regulations. Some, however, have taken the contrary view and subjected armed merchantmen of belligerents to the neutrality rules applicable to ships of war.

III.

1. During the course of the war the armament of English merchantmen has been more and more generally carried out. From reports of the German naval forces numerous cases became known in which English merchantmen not only offered armed resistance to the German war vessels, but proceeded to attack them on their own initiative, and in so doing they frequently even made use of false flags. A list of such cases is found in Exhibit 4, which from the nature of the matter can include only a part of the attacks which were actually made. It is also shown by this list that the practice described is not limited to English merchantmen, but is imitated by the merchantmen of England's allies.

2. The explanation of the action of the armed English merchantmen described is contained in Exhibits 5 to 12, which are photographic reproductions of confidential instructions of the British Admiralty found by German naval forces on captured ships. These instructions regulate in detail artillery attack by English merchantmen on Ger-

man submarines. They contain exact regulations touching the reception, treatment, activity, and control of the British gun crews taken on board merchantmen; for example, the crew are not to wear uniform in neutral ports and thus plainly belong to the British Navy. Above all it is shown by the instructions that these armed vessels are not to await any action of maritime war on the part of the German submarines, but are to attack them forthwith. In this respect the following regulations are particularly instructive:

a. The instructions for guidance in the use, care, and maintenance of armament in defensively armed merchant ships (Exhibits 5 and 6) provide in the section headed "Action," in paragraph 4: "It is not advisable to open fire at a range greater than 800 yards unless the enemy has already opened fire." From this it is the duty of the merchantman in principle to open fire without regard to the attitude of the submarine.

b. The instructions regarding submarines applicable to vessels carrying a defensive armament (Exhibits 9 and 10) prescribe under Number 3 "If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defense, notwithstanding the submarine may not have committed a definite hostile act such as firing a gun or torpedo." From this also the mere appearance of a submarine in the wake of a merchantman affords sufficient occasion for an armed attack.

In all these orders, which do not apply merely to the zone of maritime war around England, but are unrestricted as regards their validity (see Exhibit 12 for the Mediterranean), the greatest emphasis is laid on secrecy, plainly in order that the action of merchantmen, in absolute contradiction of international law and the British assurances (Exhibit 2) might remain concealed from the enemy as well as the neutrals.

3. It is thus made plain that the armed English merchantmen have official instructions to attack the German submarines treacherously wherever they come near them, that is to say orders to conduct relentless warfare against them. Since England's rules of maritime war are adopted by her allies without question the proof must be taken as demonstrated in respect of the armed merchantmen of the other enemy countries also.

IV.

In the circumstances set forth above enemy merchantmen armed with guns no longer have any right to be considered as peaceable vessels of commerce. Therefore the German naval forces will receive orders, within a short period paying consideration to the interests of the neutrals, to treat such vessels as belligerents.

The German Government brings this status of affairs to the knowledge of the neutral powers in order that they may warn their nations

against continuing to intrust their persons or property to armed merchantmen of the powers at war with the German Empire.

Berlin, February 8, 1916.

EXHIBIT 1.

DECLARATION OF THE FIRST LORD OF THE ADMIRALTY, WINSTON CHURCHILL, AT THE SESSION OF THE BRITISH LOWER HOUSE OF MARCH 26, 1913.

(Parliamentary Debates, Official Report, 3d Session of the 30th Parliament, House of Commons, 1913, Bd. 1 S. 1776 bis 1776.)

I turn to one aspect of trade protection which requires special reference. It was made clear at the second Hague Conference and the London Conference, that certain of the great powers have reserved to themselves the right to convert merchant steamers into cruisers, not merely in national harbors, but if necessary on the high seas. There is now good reason to believe that a considerable number of foreign merchant steamers may be rapidly converted into armed ships by the mounting of guns. The sea-borne trade of the world follows well-marked routes upon nearly all of which the tonnage of the British mercantile marine largely predominates. Our food-carrying liners and vessels carrying raw material following these trade routes would in certain contingencies meet foreign vessels armed and equipped in the manner described. If the British ships had no armament, they would be at the mercy of any foreign liner carrying one effective gun and a few rounds of ammunition. It would be obviously absurd to meet the contingency of considerable numbers of foreign armed merchant cruisers on the high seas by building an equal number of cruisers. That would expose this country to an expenditure of money to meet a particular danger, altogether disproportionate to the expense caused to any foreign power in creating that danger. Hostile cruisers, wherever they are found, will be covered and met by British ships of war, but the proper reply to an armed merchantman is another merchantman armed in her own defense.

This is the position to which the Admiralty have felt it necessary to draw the attention of leading shipowners. We have felt justified in pointing out to them the danger to life and property which would be incurred if their vessels were totally incapable of offering any defense to an attack. The shipowners have responded to the Admiralty invitation with cordiality, and substantial progress has been made in the direction of meeting it by preparing a defensive measure to equip a number of first-class British liners to repel the attack of armed foreign merchant cruisers. Although these vessels have, of course, a wholly different status from that of the regularly commissioned merchant cruisers, such as those we obtain under the Cunard agreement, the Admiralty have felt that the greater part of the cost of the necessary equipment should not fall upon the owners, and we have decided, therefore, to lend the necessary guns, to supply ammunition, and to provide for the training of members of the ship's company to form the guns crews. The owners on their part are paying the cost of the necessary structural conversion, which is not great. The British mercantile marine will, of course, have the protection of the Royal Navy under all possible circumstances, but it is obviously impossible to guarantee individual vessels from attack when they are scattered on their voyages all over the world. No one can pretend to view these measures without regret, or without hoping that the period of retrogression all over the world which has rendered them necessary, may be succeeded by days of broader international confidence and agreement, than those through which we are now passing.

EXHIBIT 2.

EXTRACT FROM THE OFFICIAL PUBLICATION OF THE DEPARTMENT OF STATE OF THE UNITED STATES OF AMERICA.

"European War No. 2, Diplomatic Correspondence with Belligerent Governments Relating to Neutral Rights and Duties." Page 41.¹

The British Ambassador to the Secretary of State.

No. 289.]

BRITISH EMBASSY,

Washington, August 25, 1914.

SIR: With reference to Mr. Barclay's notes Nos. 252 and 259 of the 4th and 9th of August, respectively, fully explaining the position taken up by His Majesty's Government in regard to the question of armed merchantmen, I have the honor, in view of the fact that a number of British armed merchantmen will now be visiting United States ports, to reiterate that the arming of British merchantmen is solely a precautionary measure adopted for the purpose of defense against attack from hostile craft.

I have at the same time been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to give the United States Government the fullest assurances that British merchant vessels will never be used for purposes of attack, that they are merely peaceful traders armed only for defense, that they will never fire unless first fired upon, and that they will never under any circumstances attack any vessel.

I have, etc.,

CECIL SPRING RICE.

EXHIBIT 3.

MEMORANDUM OF THE GERMAN GOVERNMENT CONCERNING THE TREATMENT OF ARMED MERCHANT VESSELS IN NEUTRAL PORTS, OF OCTOBER 13, 1914.

"An official notice appearing in the *Westminster Gazette* of September 21, 1914, states that the Department of State at Washington has ruled that ships of belligerent nations when equipped with ammunition and armament shall be treated nevertheless, while in American ports, as merchant ships, provided the armament serves for defensive purposes only. This ruling wholly fails to comply with the principles of neutrality. The equipment of British merchant vessels with artillery is for the purpose of making armed resistance against German cruisers. Resistance of this sort is contrary to international law, because in a military sense a merchant vessel is not permitted to defend itself against a war vessel, an act of resistance giving the warship the right to send the merchant ship to the bottom with crew and passengers. It is a question whether or not ships thus armed would be admitted into ports of a neutral country at all. Such ships, in any event, should not receive any better treatment in neutral ports than a regular warship, and should be subject at least to the rules issued by neutral nations restricting the stay of a warship. If the Government of the United States considers that it fulfills its duty as a neutral nation by confining the admission of armed merchant ships to such ships as are equipped for defensive purposes only, it is pointed out that so far as determining the warlike character of a ship is concerned, the distinction between the defensive and offensive is irrelevant. The destination of a ship for use of any kind in war is conclusive, and restrictions as to the extent of armament afford no guarantee that ships armed for defensive purposes only will not be used for offensive purposes under certain circumstances."

¹ *American Journal of International Law*, Special Supplement, July, 1915, p. 230.

EXHIBIT 4.

[Translation.]

DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED
ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES.

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915 Apr. 11	South North Sea, near the Nordhinder lightship.	Unknown steamer.	Steamer without a flag. Steamer saw periscope; opened gunfire at about 3,000 meters and turned on U . . . Report of the shells could be heard near the boat (about 15 or 20 shots).
Apr. 28	North Sea, about 60 nautical miles N.E. of the mouth of the Tyne.	Unknown steamer of medium size.	Steamer was sighted running onward; suddenly opened fire at about 3,000 meters without hoisting flag. On account of her head-on position it could not be seen whether she bore neutral marks. From the impact of the shots the guns were from 5 to 7 centimeters. U . . . escaped the well-directed fire by speedily submerging.
May 29	West entrance to the English Channel, near Ouessant (Ushant Island).	English S. S. <i>Demerara</i> .	U . . . chased the steamer and tried when 4,500 meters off to bring her to a halt by firing warning guns. Steamer turned off and returned the fire.
June 3	West entrance to the English Channel, 50 nautical miles south of the Scilly Isles.	Unknown steamer.	U . . . tried to bring the steamer to a halt by firing warning shots with her artillery. The steamer returned the fire with a poop gun.
June 14	West of the Hebrides (about 30 nautical miles off Lewis).	Two unknown steamers.	The two steamers were running close together—at about 4,000 meters—both opened fire on U . . . with small caliber poop guns. Shots hit sideways very bad. Speedy submerging, running deep; so submarine attack hopeless.

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
Aug. 14	Irish Sea.	Large English steamer of the Royal Mail Line.	U . . . was fired on suddenly by the steamer without provocation from a distance of 8,000 meters. Shots fell short. No attack was attempted on the steamer.
Aug. 18	Bristol Channel.	Unknown steamer.	Tried to bring steamer to a halt by gunfire after warning. When steamer saw that U boat was waiting she suddenly opened fire with a gun from the promenade deck.
Sept. 10	Western Mediterranean.	do.	A steamer was challenged to show her flag; she turned away without hoisting the flag and opened fire with a 10-centimeter poop gun on the U boat, which escaped the firing by speedily submerging.
Oct. 7	Middle Mediterranean.	French S. S. <i>Amiral Hamelin</i> .	U . . . signaled the steamer to stop; she turned away and ran on a zigzag course. The U boat tried to bring the steamer to a halt by artillery fire; when about 3,000 meters distant she returned the fire. It was some time before the steamer stopped. She was sunk later.
Nov. 3	Western Mediterranean.	English transport steamer <i>Woodfield</i> .	The steamer did not stop at the warning gun. At a distance of 6,000 meters she returned the fire with a small gun. She was forced to stop by artillery fire and her crew list showed that the steamer carried gunners and enlisted men of the navy as members of her crew.
Nov. 5	Western Mediterranean.	Unknown steamer.	A large steamer was chased by U . . . after being challenged in vain. The steamer returned the fire with a large gun. The chase had to be given up.

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
Nov. 6	Eastern Mediterranean.	English tank steamer <i>Lumina</i> .	The steamer was challenged to stop by a warning gun. She turned about, ran away, and returned the fire with a poop gun. She was compelled to stop by artillery fire and later was sunk.
Nov. 11	Western Mediterranean.	English S. S. <i>City of Marseille</i> .	U . . . after warning tried to stop a large freight steamer by artillery fire. The steamer turned away and returned the fire with two guns of about 10 centimeters. The U boat had to give up the chase; the steamer got away. A press telegram of January 1, 1916, from Bombay told the incident in detail; the steamer claimed she had sunk the U boat.
Nov. 30	Middle Mediterranean.	Unknown steamer.	U . . . after a warning gun tried to stop a large steamer by artillery fire. The steamer turned away and returned the fire with a small gun.
Dec. 8	Eastern Mediterranean.	do.	The steamer was approached under water. She fired with a poop gun on the periscope as soon as it emerged.
Dec. 13	Middle Mediterranean.	Unknown English steamer.	U . . . tried to stop by artillery fire a large steamer with poop guns that showed no flag. The steamer hoisted the English flag and returned the fire with two guns.
Dec. 14	do.	Unknown steamer.	U . . . approached the steamer which stopped at sight of the boat and ordered her to show her flag. The steamer speeded away keeping up a brisk fire from a poop gun.

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1916 Jan. 17	do.	do.	U . . . ordered a steamer apparently in ballast, that was sighted on a westerly coast, to stop. The steamer turned about, ran away, and fired with a poop gun.
Jan. 17	do.	English S. S. <i>Melanie</i> .	U . . . signalled a flush-decked freight steamer with raised fore-castle and cabin of about 3,000 tons, sailing under the Dutch flag, to send a boat and have the ship's papers examined. This was done after a while. As U . . . which for safety's sake had gone under, came to the surface about 1,000 meters away from the steamer near the ship's boat, the steamer opened fire with two guns of medium caliber and machine guns so briskly that the U . . . barely saved herself by speedily submerging. Throughout the action, the steamer displayed the Dutch flag; she bore the name of <i>Melanie</i> which is found not in the Dutch, but in the English marine list.

EXHIBIT 5.

[Exhibit 5 is a duplicate of Exhibit 6, with the following modifications: The side note to paragraphs 1-5 under the heading "General" reading "not applicable to ocean-going vessels permanently armed" does not appear in Exhibit 5; a clause reading "in one of the officers' messes" has been omitted in Exhibit 6 after the word "but" in paragraph 5 of the same heading; and paragraph 6 with its subdivisions i and ii have been added in Exhibit 6 under the heading "Instructions for Carrying and Firing Practice."—Ed.]

EXHIBIT 6.

(Found on the English Steamer *Woodfield*.)*Confidential.*INSTRUCTIONS FOR GUIDANCE IN THE USE, CARE, AND MAINTENANCE OF ARMAMENT
IN DEFENSIVELY ARMED MERCHANT SHIPS.*General.*not applicable to ocean-going
vessels permanently armed.

1. Ratings embarked as gun's crew will sign the ship's articles at the rate of pay communicated.
2. They are to obey the orders of the master and officers of the ship. If they think it necessary to make a complaint against any order, they are to obey the order and make their complaint in writing, asking that it may be forwarded to the proper authorities.
3. The ratings are not required for duties unconnected with the armament except in case of emergency, but they are to assist at all times in the welfare of the ship and look after the cleanliness of their berths.
4. They are to keep watch and watch at sea, and also when the ship is anchored in any place liable to attack by submarines.
5. They will receive their pay through the master of the ship. They will not mess with the crew, but as the master may decide.
6. Uniform is not to be worn in neutral ports.
7. A brief report is to be rendered by the senior rating on the 1st of each month, countersigned by the master, and sent to:
The Director of Trade Division,
Admiralty, Whitehall, S. W.

Drill and Maintenance of Gun.

8. The ratings embarked are entirely responsible for the efficiency in all respects of the gun and ammunition, which should be ready day and night.
9. The senior rating is to arrange with the master to detail the necessary additional men to complete the gun's crew up to the numbers required by the drill book.
10. One of the ratings is to act as gun layer and the other as breech worker. The remaining numbers should be told off to act as sight setter, projectile loader, and cartridge loader, etc.
11. Arrangements are to be made with the master to detail a sufficient number of hands, over and above the gun's crew, to supply ammunition to the gun on going into action.
12. A ready supply of ten complete rounds, with percussion tubes in the cartridges, is to be kept at the gun day and night. Care should be taken that a supply of one percussion tube to each cartridge is kept aside for action, and this supply of tubes is never to be encroached on for practice firing.
13. The senior rating should arrange with the master for the instruction of the ratings told off as gun's crew and ammunition supply party.
14. A drill book is supplied for information, but it is not necessary that the gun's crew should be burdened with details, provided that they understand what is required when the gun is to be fought.
15. Percussion firing should always be used, as it is the most certain means of discharging the gun; and therefore—
(a) Cartridges, in ready supply only, should be kept ready tubed with per-

cussion tubes. Tubes not required for ready supply of cartridges should be retained in their sealed boxes to preserve them from damp.

(b) Aiming practice with a percussion lanyard should be carried out daily. It is not necessary to fire a tube in this practice, but the breech worker should be exercised at the same time in cocking the striker while the breech is open and in hooking on the firing lanyard and passing it to the gun layer.

NOTE.—The present allowance of percussion tubes is one per cartridge. Electric firing mechanism and batteries are therefore to be kept efficient in every respect in case the supply of percussion tubes becomes insufficient from damp or other causes.

16. Great attention is to be paid to the ready supply of ammunition to keep it clean and dry. If tubes and cartridges are not kept dry there is considerable danger of hanging fire. The projectiles are to be lightly oiled. In case the cartridges are suspected to have become wet they should be laid aside until return to harbor.

17. For the maintenance of the gun and mounting it is to be borne in mind that "lubrication is the secret of efficiency in gun machinery." All oil channels should be seen clear of vaseline and filled with oil. It is to be remembered that vaseline is a preservative only; oil is a lubricant.

Each morning and evening the bore is to be seen clear, recoil cylinders filled, striker protrusion gauged, and the gun trained and elevated to both extremes. The gun is to be cleaned twice a day, gear being supplied by the master.

Brickdust is *not* to be used on machined surfaces.

Action.

The master is responsible for handling the ship and for opening and ceasing fire. He has been furnished with instructions which will enable him to do this to the best advantage. The duty of the gun's crew is to fight the gun under the general direction of the master, who will communicate to them so much of the instructions as he may consider necessary to enable them to fight the gun to the best advantage.

In action the following instructions should be carried out:

(1) When in submarine waters everything should be in a state of readiness, but the gun should not be kept actually loaded.

(2) When the enemy is engaged—

(a) The point of aim should be the center of the water line.

(b) It is to be remembered that "over" shots are useless. A short shot by causing a splash confuses the enemy. It may ricochet into the enemy. If the shell bursts on striking the water, as it usually does, some fragments are likely to hit the enemy. To get the best results at least half of the shots fired should fall short.

(3) The master will probably keep the submarine astern, so that little deflection will be necessary.

(4) It is not advisable to open fire at a range greater than 800 yards, unless the enemy has already opened fire, for the following reasons:

(a) The ammunition supply is limited.

(b) Accurate shooting under probable existing conditions cannot be expected at greater ranges.

(5) When in action and a miss fire occurs with a percussion tube, the following procedure is to be adopted:

(a) The B. M. lever is to be tapped to insure it is closed.

(b) The striker is to be recocked.

If the gun does not then fire, the striker is to be taken out to insure that the

point is not broken. If unbroken, the breech is to be opened and the cartridge is to be thrown overboard, it having been ascertained that the percussion tube has been inserted.

The gun is then to be reloaded.

Instructions for Carrying out Firing Practice.

1. In order to insure that the gun is maintained in an efficient condition, one round is to be fired every two months.
2. In order to prevent false alarms it is essential that the firing referred to in paragraph 1 shall take place in clear weather and out of sight of land and of other ships.
3. If convenient a cask or other suitable object should be dropped as a target, and the gun should be fired when the range is about 800 yards.
4. The gun's crew and ammunition supply party should be exercised on the day previous to the practice, and also immediately before firing.
5. Before practice firing the following procedure is to be carried out:
 - (a) Recoil cylinders and tanks are to be seen filled.
 - (b) Bore is to be seen clear.
 - (c) Moveable objects in the way of blast from the gun are to be removed.
 - (d) The striker is to be examined to see—
 - (1) That sheath net is screwed up and keep pin in place and intact.
 - (2) That needle set and check-nuts are screwed up.
 - (3) That striker does not protrude with B. M. lever in open position.
 - (4) That striker does not move forward till marks on breech block and gun are in line.
 - (5) That safety stop is correct and keep-screw is in place.
 - (6) In guns fitted with "A" breech mechanism, the mechanism is never to be taken apart.

Paragraphs (1), (2), and (5) do not apply, but the following should be seen to:

- (i) The nut retaining striker must be seen screwed up and keep-screw in place.
- (ii) The needle retaining-nut should be seen screwed up taut.

ADMIRALTY,

7 May, 1915.

EXHIBIT 7.

(Found on the English Steamer *Woodfield*.)

Confidential.

ADDENDA TO INSTRUCTIONS FOR GUIDANCE IN THE USE, CARE, AND MAINTENANCE OF ARMAMENT IN DEFENSIVELY ARMED MERCHANT SHIPS.

1. The master should arrange wherever possible that the space in the immediate vicinity of the gun is railed off, and passengers and other unauthorized persons should not be allowed near the gun.
2. A notice to this effect should be posted up near the gun.
3. When the ship is in harbor, one of the two ratings is always to be on board to keep guard on the gun and ammunition, and the master is to use his discretion as to keeping both ratings on board, should he consider such a course to be desirable.
4. The gun is to be kept covered at all times when not in use.

5. Whenever the ships anchor in the vicinity of a man-of-war, a request should be made to the commanding officer of the man-of-war for an armorer to inspect the gun and mounting.

ADMIRALTY,

27 May, 1915.

EXHIBIT 8.

(Found on the English Steamer *Woodfield*.)

DRILL BOOK FOR 12-PR. Q. F. GUNS ISSUED TO DEFENSIVELY ARMED MERCHANT SHIPS,
ADMIRALTY, GUNNERY BRANCH.

(G. 6118/15. May 1915.)

[Translation.]

Note: The contents of this Drill Book have only a military interest.

EXHIBIT 9.

[Exhibit 9 is a duplicate of Exhibit 10 down to paragraph 6 of the latter. Exhibit 9 bears No. 45 and is dated 25th February, 1915.—Ed.]

EXHIBIT 10.

(Found on the English Steamer *Woodfield*.)

Confidential.

No. 291.

IN NO CIRCUMSTANCES IS THIS PAPER TO BE ALLOWED TO FALL INTO THE HANDS
OF THE ENEMY.

This paper is for the master's personal information. It is not to be copied, and when not actually in use is to be kept in safety in a place where it can be destroyed at a moment's notice.

Such portions as call for immediate action may be communicated verbally to the officers concerned.

April, 1915.

INSTRUCTIONS REGARDING SUBMARINES APPLICABLE TO VESSELS CARRYING A
DEFENSIVE ARMAMENT.

1. Defensively armed vessels should follow generally the instructions for ordinary merchant ships.

2. In submarine waters guns should be kept in instant readiness.

3. If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defense, notwithstanding the submarines may not have committed a definite hostile act, such as firing a gun or torpedo.

4. In view of the great difficulty in distinguishing a friend from an enemy at night, fire should not be opened after dark unless it is absolutely certain that the vessel fired at is hostile.

5. Before opening fire the British colors must be hoisted.

It is essential that fire should not be opened under neutral colors.

6. If a defensively armed vessel is pursued by a submarine the master has two alternatives:

(a) To open fire at long range immediately it is certain that the submarine is really in pursuit.

(b) To retain fire until the submarine has closed to a range, say 800 yards, at which fire is likely to be effective. In view of the very great difficulty of distinguishing between friendly and hostile submarines at long range (one British submarine has already been fired at by a merchant vessel which erroneously supposed herself to be pursued by the submarine), it is strongly recommended that course (b) should be adopted by all defensively armed ships.

7. A submarine's flag is no guide to her nationality, as German submarines frequently fly British colors.

8. Vessels carrying a defensive armament and proceeding to neutral ports must not be painted in neutral colors or wear a neutral flag.

9. It is recommended that in neutral ports, particularly those of Spain, the armament should be concealed as far as possible. A canvas cover is recommended for this purpose.

EXHIBIT 11.

(Found on the English Steamer *Woodfield*.)

Secret.

MEMORANDUM FOR ISSUE TO MASTERS OF TRANSPORTS CARRYING TROOPS.

Use of Rifle and Machine Gun Fire by Troops on Board Transports against Enemy Submarines or Torpedo Craft.

(1) In daylight a submarine will probably attack while submerged with only her periscope showing.

At night, in moonlight, a submarine may attack while on the surface or with only her conning tower above water owing to the difficulty of seeing through the periscope at night.

(2) In either case heavy rifle or machine-gun fire will make it more difficult for a submarine to make a successful shot with a torpedo. If submerged, no injury will be done to her, but a good volume of fire falling just short of the periscope will make splashes which will render it difficult for the observer to see clearly through the periscope.

(3) When a destroyer escort is accompanying a transport, troops should not open fire on a submarine, as it may prevent a destroyer from ramming her, nor should their weapons be loaded, in order to avoid the possibility of an escorting vessel being fired on by mistake, especially at night.

(4) When no escort is provided, machine guns should be in readiness to open fire, and a strong party of riflemen should also be on duty.

(5) Military officers should be in command both of the machine guns and riflemen to control the fire.

(6) A military officer of the watch should be in command of the troops on deck. He should not order fire to be opened on a hostile submarine or torpedo vessel without the previous assent of the master or his representative—the ship's officer of the watch.

(7) The object of those controlling the fire should be to keep the center of the pattern just short of the hostile vessel.

(8) Machine-gun tripods can be lashed to the rails or other deck fittings. If there is motion on the ship and machine guns are fitted with elevating or training gear, it is advisable to disconnect it and point the gun by hand.

(9) Field guns with recoil mountings might possibly be secured on deck in such a manner as to permit of their being fired, but their arc of training would be very restricted, and it is unlikely that gun layers, without previous training afloat, could make satisfactory practice from a ship with motion on. Their use is not, therefore, recommended.

(10) In men-of-war it has been the practice for very many years to station sentries with ball cartridge on deck opposite the boats in the event of fire, collision, or other serious emergency likely to lead to the boats being required. Their duties are to prevent anyone getting into the boats or attempting to lower the boats without orders from the captain or his representative. This practice should be followed in transports.

ADMIRALTY,

31st May, 1915.

EXHIBIT 12.

(Found on the English Steamer *Linkmoor*.)

ADMIRAL SUPERINTENDENT'S OFFICE,
Malta, June, 1915.

Instructions to British Merchant Vessels Passing Through the Mediterranean Sea.

It is now certain that there are enemies submarines at sea in the Mediterranean.

In order to avoid attack you are to keep out of the track of shipping.

You are to darken ship at night and are not to show navigation lights except, at discretion, to avoid collision, and all lights are to be extinguished when necessity is passed.

You are to carry out the procedure recommended by the Admiralty in their printed instructions if a hostile submarine is sighted.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, February 29, 1916.

MY DEAR MR. SECRETARY:

With reference to our conversation of yesterday I beg to state that, according to wireless information which I received from my Government, English newspapers, amongst others the London *Times* and *Daily Graphic*, dealing with the question of armed merchantmen, openly declare that British merchantmen have no intention to conform even to the American viewpoint which permits arming of merchantmen for purposes of defense only.

The naval correspondent of the London *Times*, in the edition of February 10, admits that steamers *Kashgar*, *City of Marseille*, and the French steamer *Plata* opened fire on submarines after sighting them. The correspondent then, referring to the episode of the *Clan McTavish*, says that it did not meet deserved success, but that it shows the readiness with which merchantmen can "attack."

Likewise *Daily Graphic* in an article of February 12th, dealing with the same question, says: "Let it be understood that we shall not limit our action to defensive measures." A similar utterance is reported about in the *Daily Graphic* of February 22d.

On the other hand the semi-official North German *Gazette* on February 26th, referring to President Wilson's letter to Senator Stone, as viewed by *Reuter*, publishes the following article:

The principles stated in the German memorandum are by no means opposed to international law, for secret orders of the British Admiralty published in the memorandum expressly instruct armed British merchantmen to not only defend themselves but to attack also. Numerous incidents quoted in the memorandum give further proof that the ships follow this instruction. Such vessels according to international law cease to be peaceful trading ships. On the other hand the precedent taken by our enemies appears as gross breach of law of nations, since they through merchantmen commit acts of warfare that only a real man-of-war is entitled to. If President Wilson in his letter to Senator Stone says that announced measures against armed enemy merchant ships are contrary to express assurances given by Germany and Austro-Hungary, this is apparently caused by misunderstanding. For these assurances referred only to peaceful liners and not to such ships whose armament is connected with aggressive purposes. These misunderstandings were apparently caused by the fact that the memorandum with annexes is not yet in the hands of the American Government and that therefore the President is so far unable to examine both.

I am, etc.,

J. BERNSTORFF.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, April 11, 1916.

SIR: I have the honor to transmit herewith to the Department a copy and translation of a Note Verbale, dated April 11, 1916, received from the Imperial Foreign Office, inclosing a copy of an official order said to have been issued by the English Admiralty for armed English merchant vessels for the event of meeting submarines, which order was found on the English steamer *Appam* brought in as a prize by the German ship *Moewe*.

The substance of this note is to-day being cabled to the Department.

I am, etc.,

For the Ambassador,
J. C. GREW.

[Inclosure—Translation.]

No. IIIa. 6499.
69362.FOREIGN OFFICE,
Berlin, April 11, 1916.

NOTE VERBALE.

The Foreign Office has the honor to transmit herewith to the Embassy of the United States of America a copy of an official order issued by the English Admiralty for armed English merchant vessels for the event of meeting submarines. The order was found on board the English steamer *Appam*, brought in as a prize by His Majesty's ship *Moewe*.

It is evident from this official order also that the English merchant vessels are to proceed aggressively against any submarine which comes in sight; it is therefore likewise in conflict with the assertion of the British Government that English merchant vessels are only armed for defense.

The Foreign Office begs to request the Embassy to acquaint its Government of the above.

[Subinclosure.]

Any submarine approaching a merchant vessel may be treated as hostile. Gunfire from the latest submarines is effective in fine weather and at close range. If chased by submarine armed with gun, first attempt to escape; if this proves impossible, turn and steer straight for submarine before she gets close enough to use her guns effectively. It is believed that German submarine must get into a position nearly end on in order to fire a torpedo. In submarine waters all ships should proceed at utmost speed; fast ships whose speed exceeds ten knots should zigzag, course being altered at short and irregular intervals unless proximity of other vessels makes this unsafe for navigation. Under water speed of submarine is low and zigzagging makes it difficult for it to get into position to deliver surprise attack. Wireless warnings sent out from Saintjust and Valencia at 3 and 9 a. m. and p. m. in M. V. Code will tell you where submarines are active, but should necessity arise warnings may be sent at any time. German submarines are fitted with wireless. No wireless signals except in emergency are allowed within 100 miles from British coast.

Most important to make landfall after dark and when position is verified give coast a wide berth. Submarines can operate as surface boats at night; all unnecessary lights therefore increase the danger. The presence of a ship may be disclosed to a submarine by the undue use of a siren.

Instruction from Admiralty Secret.

(Signature illegible.)

13. 6. 15.

PART VI.

SUPPLIES FOR BELLIGERENT VESSELS.

*The Acting Secretary of State to the German Ambassador.*¹

DEPARTMENT OF STATE,
Washington, September 19, 1914.

DEAR MR. AMBASSADOR:

I am inclosing for your information two memoranda, which the Department has issued to-day and which define the general rules which this Government will follow in dealing with cases involving the status of armed merchant vessels visiting American ports, and with cases of merchant vessels suspected of carrying supplies to belligerent warships from American ports.

I am, etc.,

ROBERT LANSING.

[Inclosure 1.]²

[Inclosure 2.]

MERCHANT VESSELS SUSPECTED OF CARRYING SUPPLIES TO BELLIGERENT
VESSELS.

1. A base of operations for belligerent warships is presumed when fuel or other supplies are furnished at an American port to such warships more than once within three months since the war began, or during the period of the war, either directly or by means of naval tenders of the belligerent or by means of merchant vessels of belligerent or neutral nationality acting as tenders.

2. A common rumor or suspicion that a merchant vessel laden with fuel or other naval supplies intends to deliver its cargo to a belligerent warship on the high seas, when unsupported by direct or circumstantial evidence, imposes no duty on a neutral government to detain such merchant vessel even for the purpose of investigating the rumor or suspicion, unless it is known that the vessel has been previously engaged in furnishing supplies to a belligerent warship.

3. Circumstantial evidence, supporting a rumor or suspicion that a merchant vessel intends to furnish a belligerent warship with fuel

¹ Same to the British, French, and Japanese Ambassadors in Washington, and the Belgian Minister.

² Inclosure No. 1 printed under section "Armed Merchant Vessels," p. 116.

or other supplies on the high seas, is sufficient to warrant detention of the vessel until its intention can be investigated in the following cases:

(a) When a belligerent warship is known to be off the port at which the merchant vessel is taking on cargo suited for naval supplies, or when there is a strong presumption that the warship is off the port.

(b) When the merchant vessel is of the nationality of the belligerent whose warship is known to be off the coast.

(c) When a merchant vessel which has on a previous voyage between ports of the United States and ports of other neutral States failed to have on board at the port of arrival a cargo consisting of naval supplies shipped at the port of departure seeks to take on board a similar cargo.

(d) When coal or other supplies are purchased by an agent of a belligerent Government and shipped on board a merchant vessel which does not clear for a port of the belligerent but for a neighboring neutral port.

(e) When an agent of a belligerent is taken on board a merchant vessel having a cargo of fuel or other supplies and clearing for a neighboring neutral port.

4. The fact that a merchant vessel, which is laden with fuel or other naval supplies, seeks clearance under strong suspicion that it is the intention to furnish such fuel or supplies to a belligerent warship, is not sufficient ground to warrant its detention, if the case is isolated and neither the vessel nor the warship for which the supplies are presumably intended has previously taken on board similar supplies since the war began or within three months during the period of the war.

5. The essential idea of neutral territory becoming the base for naval operations by a belligerent is *repeated* departure from such territory by a naval tender of the belligerent or by a merchant vessel in belligerent service which is laden with fuel or other naval supplies.

6. A merchant vessel, laden with naval supplies, clearing from a port of the United States for the port of another neutral nation, which arrives at its destination and there discharges its cargo, should not be detained if, on a second voyage, it takes on board another cargo of similar nature.

In such a case the port of the other neutral nation may be a base for the naval operations of a belligerent. If so and even if the fact is notorious, this Government is under no obligation to prevent the shipment of naval supplies to that port. Commerce in munitions of war between neutral nations cannot as a rule be a basis for a claim of unneutral conduct, even though there is a strong presumption or actual knowledge that the neutral State, in whose port the supplies are discharged, is permitting its territory to be used as a base of supply for belligerent warships. The duty of preventing an unneutral act rests entirely upon the neutral State whose territory is being used as such a base.

In fact this principle goes further in that, if the supplies were shipped directly to an established naval base in the territory or under the control of a belligerent, this Government would not be obligated by its neutral duty to limit such shipments or detain or otherwise interfere with the merchant vessels engaged in that trade. A neutral can only be charged with unneutral conduct when the supplies, furnished to a belligerent warship, are furnished directly to it in a port of the neutral or through naval tenders or merchant vessels acting as tenders departing from such port.

7. The foregoing propositions do not apply to furnishing munitions of war included in absolute contraband, since in no event can a belligerent warship take on board such munitions in neutral waters, nor should it be permitted to do so indirectly by means of naval tenders or merchant vessels acting as such tenders.

DEPARTMENT OF STATE,
September 19, 1914.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, D. C., October 21, 1914.

MR. SECRETARY OF STATE:

I am told that the tug *F. B. Dalzell* at 11 p. m. in the night of September 31–October 1, put to sea from Pier 6 East River, New York, to carry provisions to the British cruiser *Essex*. The *Essex* was lying about five nautical miles off Gedney Channel, two nautical miles southeast of Scotland Lightship. As she came out of Gedney Channel the tug is said to have come under the searchlight of the American warship *Florida* that was lying in front of the channel. The provisions, about forty tons of fresh meats wrapped in cloth, were taken from the tug in boats that had been sent from the war vessel. The tug then returned to New York where it arrived at daybreak.

The tug *G. H. Dalzell* which belongs to the same line, went on a similar errand in the night of October 1–2. That tug also left from Pier 6 East River.

I have the honor to bring the foregoing to Your Excellency's knowledge with a request that you will kindly set on foot an investigation of the case and ascertain whether it constitutes a violation of the neutrality laws.

Accept, etc.,

J. BERNSTORFF.

The Counselor of the Department of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, November 7, 1914.

MY DEAR MR. AMBASSADOR:

Referring to my previous communication to you of October 30¹ regarding the internment of the German cruiser *Geier*, the Department is now in possession of information that the German steamship *Locksun*, belonging to the Norddeutscher Lloyd Company, cleared August 16, 1914, from Manila with 3,215 tons of coal for Menado, in the Celebes; that she coaled the German warship *Geier* in the course of her voyage toward Honolulu, where she arrived soon after the *Geier*; that the *Locksun* received coal by transfer from another vessel somewhere between Manila and Honolulu, and that the captain stated that he had on board 245 or 250 tons of coal when he entered Honolulu, whereas investigation showed that he had on board approximately 1,600 tons.

From these facts the Department is of the opinion that the operations of the *Locksun* constitute her a tender to the *Geier*, and that she may be reasonably so considered at the present time. This Government is, therefore, under the necessity of according the *Locksun* the same treatment as the *Geier*, and has taken steps to have the vessel interned at Honolulu if she does not leave immediately.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Counselor of the Department of State.

GERMAN EMBASSY,
Washington, November 11, 1914.

MY DEAR MR. LANSING:

I beg to acknowledge receipt of your letter of 7th instant informing me that the German steamer *Locksun*, belonging to the Norddeutscher Lloyd, now at Honolulu, is considered by the United States Government as being a tender to H. M. S. *Geier* and would therefore be interned at Honolulu if she did not leave immediately.

In reply to this communication I beg you to kindly let me know on which rule or regulation the detention of the *Locksun* is to be based.

The *Locksun* cannot be considered as a man-of-war, not even an auxiliary ship, but is a simple merchant ship. As to the alleged

¹ Printed, *infra*, p. 156, under section regarding internment of the *Geier*.

coaling of H. M. S. *Geier* from the *Locksun* the neutrality regulations of the United States only provide that a vessel can be prevented from taking coal to a warship for a period of three months after having left an American port. As the *Locksun* left the last American port (Manila) on August 16 she ought to be free on November 16.

I am, etc.,

J. BERNSTORFF.

The Counselor of the Department to the German Ambassador.

DEPARTMENT OF STATE,
Washington, November 16, 1914.

MY DEAR MR. AMBASSADOR:

In reply to your note of the 11th instant, inquiring on which rule or regulation the internment of the German ship *Locksun* is based, I would advise you that the *Locksun* has been interned on the principle that she has been acting as a tender to the German warship *Geier*, as the facts set forth in my note of the 7th instant substantiate. If, under the circumstances, the *Locksun* has been in fact a tender to the *Geier*, the question involved does not relate to the amount of coal which either the *Locksun* or the *Geier* has taken on within three months, but rather relates to the association and coöperation of the two vessels in belligerent operations. The *Locksun*, having been shown to have taken the part of a supply ship for the *Geier*, is, in the opinion of this Government, stamped with the belligerent character of that vessel, and has really become a part of her equipment. In this situation it is difficult to understand on what basis it would have been possible to distinguish between the two vessels, so as to intern the one and not the other. This Government, therefore, has taken what appears to it to be the only reasonable course, under the circumstances, and directed that both vessels be interned.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, November 21, 1914.

MR. SECRETARY OF STATE:

In reply to Your Excellency's kind note of the 12th instant and with reference to Under Secretary of State Lansing's letter of the

16th instant, both about the internment of the German steamship *Locksun* at Honolulu, I have the honor to say the following:

Under Secretary of State Lansing informed me in his above-mentioned letter of the 16th instant that the S. S. *Locksun* had been interned because she had served as a tender to H. M. S. *Geier*, had thereby assumed the character of a belligerent and was to be considered as part of the equipment of a war vessel. To this I wish to say that there is, so far as I know, no international law or stipulation in existence which imparts the character of a warcraft, i.e., of a "part of a warship" to a tender on account of her accompanying a warship. The situation in times of peace also proves this. Where there is a likelihood of the warship being unable safely to get along on her own resources, there is the necessity of sending tenders along. This is rather often done in times of peace without causing such tenders to be considered and treated on that account as "parts of the warship concerned," or in the light of international law even as warships.

Granting, however, that such vessel could actually be considered as "part of a warship," then there could be no doubt that its part as a coaling and supply ship would come to an end at the very moment the warship is interned and she would then cease to be "part of a warship."

Besides, if it be enough, as stated in the above referred to note of the 16th instant, to stamp a steamer as a warcraft that she did supply a war vessel with coals or provisions, then the steamship *Locksun's* case in nowise differs from that of the tug *F. B. Dalzell*, which, as I had the honor to inform Your Excellency by my note of the 21st ultimo, carried victuals and information to the English warship *Essex* from the port of New York.

Accept, etc.,

J. BERNSTORFF.

The Acting Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, November 23, 1914.

EXCELLENCY:

Referring to your note of the 21st ultimo, stating that your Embassy was in receipt of information to the effect that, on the night of September 30 last, the tug *F. B. Dalzell* put to sea from Pier 6, East River, New York, to carry provisions to the British cruiser *Essex*, which was lying off Gedney Channel; that as she came out of Gedney Channel the tug came under the searchlights of the U. S. S. *Florida*; that the provisions were taken from the tug in boats sent from the *Essex*; and that the tug *G. H. Dalzell* went on a similar

errand on the night of October 1, I have the honor to inform you that the Government of the United States has had the matter thoroughly investigated and has not been able to find as yet sufficient evidence showing that the tug *F. B. Dalzell* has furnished supplies to British warships. If Your Excellency can supply any evidence bearing on the matter, the Department will be glad to have a further investigation made on the basis of the new information.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 11, 1914.

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of the 21st ultimo in regard to the internment of the German steamship *Locksun* at Honolulu.

In reply I have the honor to call your attention to the expression "part of a warship," which occurs throughout your note. I do not understand from what source this expression is derived, as I do not find it in the correspondence of the Department to you on this subject. In my note to you of the 16th ultimo it was stated that the *Locksun*, having been shown to have taken the part of a supply ship for the *Geier*, is, in the opinion of this Government, stamped with the belligerent character of that vessel, and has really become part of her equipment. This of course does not state that she is a "part of a warship." A tender is a part of the equipment of a vessel of war in the sense of acting as an auxiliary to such a vessel in the matter of carrying supplies and possibly giving other assistance. In a very real sense a vessel of war so attended may be considered as a belligerent expedition of which the tender is a part of the equipment, but to put a tender in the category of "part of a warship" is to suggest that the treatment to be accorded the tender shall be governed by the rules of contraband.

In the circumstances of this case, as known by the Department, it is obliged to state that it still adheres to its previous position that the status of the *Locksun* as a tender to the ship of war *Geier* was sufficiently proved to justify her treatment as such. In this connection the Department has the honor to call to your attention the following quotation from the award of the Alabama Claims Commis-

sion, which seems to establish this principle regarding the treatment of tenders, although the application of this statement was not made to the exact circumstances of the *Locksun* case:

And so far as relates to the vessels called the *Tuscaloosa* (tender to the *Alabama*), the *Clarence*, the *Tacony*, and the *Archer* (tenders to the *Florida*), the tribunal is unanimously of opinion that such tenders or auxiliary vessels, being properly regarded as accessories, must necessarily follow the lot of their principals and be submitted to the same decision which applies to them respectively.

The entire practice of the internment of vessels appears to be of recent origin. The doctrine of internment was apparently first applied to any great extent during the Russo-Japanese war, and it is believed that the treatment of the *Locksun* is in keeping with the high standard of neutrality upon which the doctrine of internment is based. The Department is not aware that measures to preserve neutrality are entirely dictated by precedent and international law, and it believes that belligerents hardly have proper cause to question an attitude on neutrality justly in advance of precedent and international law if it is applied by the neutral impartially to all belligerents. As to the advisability of assuming such an attitude, the Department is impressed with the proposition that the neutral and not the belligerent is the proper judge in the circumstances.

You refer to the case of the tug *F. B. Dalzell*, which you state carried supplies and information to the English warship *Essex* from the port of New York, and suggest that this case in no wise differs from that of the steamship *Locksun*. In reply I have the honor to inform you that the result of this Government's investigation is to the effect that the tug *Dalzell* did not as a fact carry supplies and information to any British warship from the port of New York. If, however, Your Excellency is in possession of facts showing the contrary, the Government will be glad to be furnished with such data in order that it may renew its investigation and establish the truth in regard to the tug *Dalzell*, whether or not it agrees with the present finding of the Government. It will be recalled, however, that the tug *Dalzell* is an American vessel and therefore is not subject to internment as that term is understood in international law. This circumstance is not regarded, however, as relieving the Government from the duty of preventing the use of American ports as bases of naval operations as required by the provisions of Hague Convention No. 13, of 1907.

Accept, etc.,

W. J. BRYAN.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, December 15, 1914.

MR. SECRETARY OF STATE:

The position taken by the Government of the United States as to the delivery of coal and other necessities to warships of the belligerent states constituting a violation of neutrality is, in the opinion of the Imperial German Government, untenable in international law. The Imperial Government has set forth its position on this point in a memorandum which, in compliance with instructions, I have the honor to forward to Your Excellency.

The Imperial Government indulges the hope that the Government of the United States, upon perusal of the memorandum, will concur in the view of the Imperial Government and, within the limits drawn in the memorandum, will grant free clearance to vessels that should supply German warships with coal. I should be thankful to Your Excellency for a communication in this respect.

Accept, etc.,

J. BERNSTORFF.

[Inclosure—Translation.]

MEMORANDUM.

Under the general principles of international law no exception can be taken to neutral states letting war material go to Germany's enemies from or through their territory. This is accordant with Article 7 of The Hague Conventions of October 18, 1907, concerning the rights and duties of neutrals in naval and land war. If, however, a state avails itself of that liberty in favor of her enemies, then it must, in accordance with a rule generally accepted in international law and confirmed in Article 9 of the two Conventions above cited, place no obstacle to the German military force ordering contraband from or through its territory.

The neutrality declaration of the United States takes this construction into full account when it allows contraband of war to be delivered equally to all belligerents.

"All persons may lawfully and without restriction by reason of the aforesaid state of war manufacture and sell within the United States arms and ammunitions of war and other articles ordinarily known as contraband of war."

The public declaration of the State Department of the United States of October 15, 1914, on the subject of neutrality and contraband, gave the widest acceptance to the above-stated principle.

In spite thereof, various American port authorities have denied clearance from American ports to vessels of the merchant marine which would carry needed supplies or fuel to German warships either on the high seas or in other neutral ports.

According to the principles of international law above cited a neutral State need not prevent furnishing supplies of this character; neither can it, after allowing the adversaries to be furnished with contraband, either detain or in any way disable a merchant ship carrying such a cargo. Only when contraband trade would turn the ports into bases of German military operations would the unilateral stoppage of the trade of those vessels become a duty. Such, perhaps, would be the case if the Germans kept coal depots in the ports or if the vessels called at the port in regular voyages on the way to German naval forces. But it stands to reason that one merchant vessel occasionally sailing with coal or supplies for German warships does not turn a neutral port into a German point of support contrary to neutrality.

Our enemies draw from the United States contraband of war, especially arms, worth several billions of marks. This in itself they are authorized to do. But if the United States will prevent our warships occasionally drawing supplies from its ports, a great injustice grows out of the authorization, for it would amount to an unequal treatment of the belligerents and constitute a breach of the generally accepted rules of neutrality to Germany's detriment.

The German Ambassador to the Counselor of the Department of State.

GERMAN EMBASSY,
Washington, December 21, 1914.

MY DEAR MR. LANSING:

I learn that the British S. S. *Mallina* and *Tremeadow*, who served as tenders to British cruisers, now demand to be allowed to coal in Panama and to leave for Australia, alleging that they have ceased to be tenders of British warships.

I beg to draw your attention to the fact that, as far as can be seen from here, their case, in the principal points, is identical with the case of the German S. S. *Locksun*.

I am, etc.,

J. BERNSTORFF.

The Counselor of the Department of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 23, 1914.

MY DEAR MR. AMBASSADOR:

In reply to your note of the 21st instant, with reference to the British S. S. *Mallina* and *Tremeadow*, which you state have served as tenders to British cruisers, and are demanding coal in the Panama

Canal Zone, I would advise you that these vessels have been considered by the Canal authorities as coming under Rule 2 of the President's proclamation of November 13 last in relation to the neutrality of the Panama Canal Zone, which accords to transports or fleet auxiliaries the same treatment as that given to belligerent vessels of war.

I am, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 24, 1914.

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of the 15th instant inclosing, by direction of your Government, a copy of a memorandum of the Imperial Government on the subject of the delivery of coal and other necessities to warships of belligerent States. In the course of the memorandum your Government takes the opportunity to set forth its attitude toward traffic in contraband of war by citizens of neutral countries. I take note, therefore, of your Government's statement that "under the general principles of international law no exception can be taken to neutral States letting war material go to Germany's enemies from or through neutral territory," and that the adversaries of Germany in the present war are, in the opinion of the Imperial Government, authorized to "draw from the United States contraband of war, especially arms, worth several billions of marks." These principles, as you state, have been accepted by the United States Government in the statement issued by the Department on October 15 last, entitled "Neutrality and Trade in Contraband." Acting in conformity with propositions there set forth this Government has itself taken no part in contraband traffic and so far as possible has lent its influence toward equal treatment for all belligerents in the matter of purchasing arms and ammunition in the United States. Complaint, however, appears to be made by the Imperial German Government of the refusal of clearance by American authorities to merchant vessels intending to furnish fuel and supplies to German warships on the high seas or in neutral ports.

In reply I desire to call to your attention that the Government is not aware that any merchant vessel has been refused a clearance on

these grounds during the present war, although certain temporary detentions have been found to be necessary for the purpose of investigating the *bona fides* of the alleged destinations of particular vessels and the intentions of their owners or masters. This has been done in an effort to carry out the principles of international law and the declaration of treaties with respect to coal supplies for belligerent warships and the use of neutral ports as bases of naval operations. Although as a rule there is on the part of the nationals of neutral countries entire freedom of trade in arms, ammunition, and other articles of contraband, nevertheless the Imperial German Government will recall that international law and the treaties declaratory of its principles make a clear distinction between ordinary commerce in contraband of war and the occasional furnishing of warships at sea or in neutral ports. In this relation I venture to advert to Articles 18 to 20, inclusive, of Hague Convention No. 13, 1907. From these articles it will be observed that a warship which has received fuel in a port belonging to a neutral power may not within the succeeding three months replenish her supply in a port of the same power. It is, I am sure, only necessary to call your attention to these articles to make it perfectly clear that if a number of merchant vessels may at short intervals leave neutral ports with cargoes of coal for transshipment to belligerent warships at sea, regardless of when the warships last received fuel in the ports of the same neutral power, the conventional prohibition would be nullified, and the three months' rule rendered useless. By such practice a warship might remain on its station engaged in belligerent operations without the inconvenience of repairing to port for fuel supplies.

Furthermore, Article 5, of the same Convention, forbids belligerents to use neutral ports and waters as a base of naval operations against their adversaries. As stated in the Department's statement on "Merchant Vessels Suspected of Carrying Supplies to Belligerent Vessels," dated September 19 last (a copy of which is inclosed),¹ the essential idea of neutral territory becoming the base for naval operations by a belligerent is in the opinion of this Government *repeated* departure from such territory of merchant vessels laden with fuel or other supplies for belligerent warships at sea. In order to ascertain the vessels which are thus operating, the Government has been obliged to investigate certain cases in order that it might determine whether there have been or are about to be repetitions of such acts. But in all respects equality of treatment has been observed

¹ See *supra*, p. 138.

toward all merchant vessels suspected of carrying supplies to belligerent vessels.

It is hardly necessary to recount in this note the provisions of The Hague Conventions in regard to the fitting out or arming of vessels within the jurisdiction of a neutral power, or the stipulations in the same Conventions regarding the departure of vessels intended to cruise or engage in hostile operations which have been adopted entirely, or in part, for such use within neutral jurisdiction. To the extent of these restrictions the furnishing of munitions of war included in absolute contraband is prohibited in neutral waters, and therefore should not be permitted indirectly by means of naval tenders, or merchant vessels acting as tenders, carrying such materials from a neutral jurisdiction to belligerent warships at sea.

It is not necessary in further reply to the memorandum of the Imperial German Government to advert in detail to other provisions of The Hague Conventions or to other rules of international law, for no particular cases have been adduced as a ground for your Government's complaint. If, however, they will specify the vessels which they must have in mind as having been accorded unequal treatment, the Department will be glad to give further consideration to the memorandum of your Government in the light of actual facts. It is then sufficient to say for the present that in the pursuance of the policy to carry out the principles above referred to, which is part of the program of this Government to preserve and maintain the neutrality of the United States, all merchant vessels suspected of carrying supplies to belligerent warships at sea have been subjected, and will continue to be subjected, to unremitting and painstaking investigation. Such action cannot, it is believed, be fairly taken to amount to "unequal treatment of the belligerents and constitute a breach of the generally accepted rules of neutrality to Germany's detriment."

Accept, etc.,

W. J. BRYAN.

PART VII.

GERMAN-AMERICAN TRADE AND THE EXPORTATION
OF ARMS AND MUNITIONS.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, April 4, 1915.

MR. SECRETARY OF STATE:

I have the honor to deliver to Your Excellency the inclosed memorandum on German-American trade and the question of delivery of arms.

Accept, etc.,

J. BERNSTORFF.

[Inclosure—Translation.]

MEMORANDUM.

IMPERIAL GERMAN EMBASSY,
Washington, D. C., April 4, 1915.

The various British Orders in Council have one-sidedly modified the generally recognized principles of international law in a way which arbitrarily stops the commerce of neutral nations with Germany. Even before the last British Order in Council, the shipment of conditional contraband, especially food supplies, to Germany was practically impossible. Prior to the protest sent by the American to the British Government on December 28 last, such a shipment did not actually take place in a single case. Even after this protest the Imperial Embassy knows of only a single case in which an American shipper has ventured to make such a shipment for the purpose of legitimate sale to Germany. Both ship and cargo were immediately seized by the English and are being held in an English port under the pretext of an order of the German Federal Council (Bundesrat) regarding the grain trade, although this resolution of the Federal Council relates exclusively to grain and flour, and not to other food-stuffs, besides making an express exception with respect to imported foodstuffs, and although the German Government gave the American Government an assurance, and proposed a special organization whereby the exclusive consumption by the civilian population is absolutely guaranteed.

Under the circumstances the seizure of the American ship was inadmissible according to recognized principles of international law. Nevertheless the United States Government has not to date secured

the release of the ship and cargo, and has not, after a duration of the war of eight months, succeeded in protecting its lawful trade with Germany.

Such a long delay, especially in matters of food supply, is equivalent to an entire denial.

The Imperial Embassy must therefore assume that the United States Government acquiesces in the violations of international law by Great Britain.

Then there is also the attitude of the United States in the question of the exportation of arms. The Imperial Government feels sure that the United States Government will agree that in questions of neutrality it is necessary to take into consideration not only the formal aspect of the case, but also the spirit in which the neutrality is carried out.

The situation in the present war differs from that of any previous war. Therefore any reference to arms furnished by Germany in former wars is not justified, for then it was not a question *whether* war material should be supplied to the belligerents, but *who* should supply it in competition with other nations. In the present war all nations having a war material industry worth mentioning are either involved in the war themselves or are engaged in perfecting their own armaments, and have therefore laid an embargo against the exportation of war material. The United States is accordingly the only neutral country in a position to furnish war materials. The conception of neutrality is thereby given a new purport, independently of the formal question of hitherto existing law. In contradiction thereto, the United States is building up a powerful arms industry in the broadest sense, the existing plants not only being worked but enlarged by all available means, and new ones built. The international conventions for the protection of the rights of neutral nations doubtless sprang from the necessity of protecting the existing industries of neutral nations as far as possible from injury in their business. But it can in no event be in accordance with the spirit of true neutrality if, under the protection of such international stipulations, an entirely new industry is created in a neutral State, such as is the development of the arms industry in the United States, the business whereof, under the present conditions, can benefit only the belligerent powers.

This industry is actually delivering goods only to the enemies of Germany. The theoretical willingness to supply Germany also if shipments thither were possible, does not alter the case. If it is the will of the American people that there shall be a true neutrality, the United States will find means of preventing this one-sided supply of arms or at least of utilizing it to protect legitimate trade with Germany, especially that in foodstuffs. This view of neutrality should all the more appeal to the United States Government because the latter enacted a similar policy toward Mexico. On February 4, 1914, President Wilson, according to a statement of a Representative in Congress in the Committee for Foreign Affairs of December 30, 1914,

upon the lifting of the embargo on arms to Mexico, declared that "we should stand for genuine neutrality, considering the surrounding facts of the case * * *". He then held that "in that case, because Carranza had no ports, while Huerta had them and was able to import these materials, that it was our duty as a nation to treat (Carranza and Huerta) upon an equality if we wished to observe the true spirit of neutrality as compared with a mere paper neutrality."

If this view were applied to the present case, it would lead to an embargo on the exportation of arms.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 21, 1915.

EXCELLENCY:

I have given thoughtful consideration to Your Excellency's note of the 4th of April, 1915, inclosing a memorandum of the same date, in which Your Excellency discusses the action of this Government with regard to trade between the United States and Germany and the attitude of this Government with regard to the exportation of arms from the United States to the nations now at war with Germany.

I must admit that I am somewhat at a loss how to interpret Your Excellency's treatment of these matters. There are many circumstances connected with these important subjects to which I would have expected Your Excellency to advert, but of which you make no mention, and there are other circumstances to which you do refer which I would have supposed to be hardly appropriate for discussion between the Government of the United States and the Government of Germany.

I shall take the liberty, therefore, of regarding Your Excellency's references to the course pursued by the Government of the United States with regard to interferences with trade from this country, such as the Government of Great Britain have attempted, as intended merely to illustrate more fully the situation to which you desire to call our attention and not as an invitation to discuss that course. Your Excellency's long experience in international affairs will have suggested to you that the relations of the two Governments with one another cannot wisely be made a subject of discussion with a third Government, which cannot be fully informed as to the facts and which cannot be fully cognizant of the reasons for the course pursued. I believe, however, that I am justified in assuming that what

you desire to call forth is a frank statement of the position of this Government in regard to its obligations as a neutral power. The general attitude and course of policy of this Government in the maintenance of its neutrality I am particularly anxious that Your Excellency should see in their true light. I had hoped that this Government's position in these respects had been made abundantly clear, but I am of course perfectly willing to state it again. This seems to me the more necessary and desirable because, I regret to say, the language which Your Excellency employs in your memorandum is susceptible of being construed as impugning the good faith of the United States in the performance of its duties as a neutral. I take it for granted that no such implication was intended, but it is so evident that Your Excellency is laboring under certain false impressions that I cannot be too explicit in setting forth the facts as they are, when fully reviewed and comprehended.

In the first place, this Government has at no time and in no manner yielded any one of its rights as a neutral to any of the present belligerents. It has acknowledged, as a matter of course, the right of visit and search and the right to apply the rules of contraband of war to articles of commerce. It has, indeed, insisted upon the use of visit and search as an absolutely necessary safeguard against mistaking neutral vessels for vessels owned by an enemy and against mistaking legal cargoes for illegal. It has admitted also the right of blockade if actually exercised and effectively maintained. These are merely the well-known limitations which war places upon neutral commerce on the high seas. But nothing beyond these has it conceded. I call Your Excellency's attention to this, notwithstanding it is already known to all the world as a consequence of the publication of our correspondence in regard to these matters with several of the belligerent nations, because I cannot assume that you have official cognizance of it.

In the second place, this Government attempted to secure from the German and British Governments mutual concessions with regard to the measures those Governments respectively adopted for the interruption of trade on the high seas. This it did, not of right, but merely as exercising the privileges of a sincere friend of both parties and as indicating its impartial good will. The attempt was unsuccessful; but I regret that Your Excellency did not deem it worthy of mention in modification of the impressions you expressed. We had hoped that this act on our part had shown our spirit in these times of distressing war as our diplomatic correspondence had shown

our steadfast refusal to acknowledge the right of any belligerent to alter the accepted rules of war at sea in so far as they affect the rights and interests of neutrals.

In the third place, I note with sincere regret that, in discussing the sale and exportation of arms by citizens of the United States to the enemies of Germany, Your Excellency seems to be under the impression that it was within the choice of the Government of the United States, notwithstanding its professed neutrality and its diligent efforts to maintain it in other particulars, to inhibit this trade, and that its failure to do so manifested an unfair attitude toward Germany. This Government holds, as I believe Your Excellency is aware, and as it is constrained to hold in view of the present indisputable doctrines of accepted international law, that any change in its own laws of neutrality during the progress of a war which would affect unequally the relations of the United States with the nations at war would be an unjustifiable departure from the principle of strict neutrality by which it has consistently sought to direct its actions, and I respectfully submit that none of the circumstances urged in Your Excellency's memorandum alters the principle involved. The placing of an embargo on the trade in arms at the present time would constitute such a change and be a direct violation of the neutrality of the United States. It will, I feel assured, be clear to Your Excellency that, holding this view and considering itself in honor bound by it, it is out of the question for this Government to consider such a course.

I hope that Your Excellency will realize the spirit in which I am drafting this reply. The friendship between the people of the United States and the people of Germany is so warm and of such long standing, the ties which bind them to one another in amity are so many and so strong, that this Government feels under a special compulsion to speak with perfect frankness when any occasion arises which seems likely to create any misunderstanding, however slight or temporary, between those who represent the Governments of the two countries. It will be a matter of gratification to me if I have removed from Your Excellency's mind any misapprehension you may have been under regarding either the policy or the spirit and purposes of the Government of the United States. Its neutrality is founded upon the firm basis of conscience and good will.

Accept, etc.,

W. J. BRYAN.

PART VIII.

INTERNMENT OF GERMAN VESSELS.¹

The Counselor of the Department of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, October 30, 1914.

MY DEAR MR. AMBASSADOR:

The Department has been advised that the German gunboat *Geier* put into the port of Honolulu, and on October 15 the captain requested permission to make repairs to render the vessel seaworthy, and estimated the time for this work to be one week. The naval constructor of the United States at the port of Honolulu examined the vessel on October 20, and recommended that the time be extended eight days, from October 20, in order to place the boilers in a seaworthy condition. On October 27, the German consul at that port requested from eight to ten days additional time in which to make repairs to steam and feed piping and boilers that have been found to be in a leaking condition. Upon a further examination, the United States naval constructor reports that he is unable to state how long repairs should take, as conditions requiring remedy may be found as work progresses. It is also reported that, on account of the generally bad condition of the piping and boilers, further time may be required to complete all repairs.

The circumstances in this case point to the gunboat *Geier* as a ship that at the outbreak of war finds itself in a more or less broken-down condition and on the point of undergoing general repairs, but still able to keep the sea. In this situation the Government believes that it does not comport with a strict neutrality or a fair interpretation of The Hague Conventions, to allow such a vessel to complete unlimited repairs in a United States port. The Government therefore has instructed the authorities to notify the captain of the *Geier* that three weeks from October 15 will be allowed the *Geier* for repairs, and that if she is not able to leave American waters by November 6, the United States will feel obliged to insist that she be interned until the expiration of the war.

I am, etc.,

ROBERT LANSING.

¹ See correspondence regarding the internment of the tender *Bocksun*, *supra*, pp. 141-147.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, November 11, 1914.

MR. SECRETARY OF STATE:

Two officers of H. M. S. *Geier* who had been granted sick leave have been interned with their orderlies in the United States. It seems that the United States Government took that measure on the ground that they belonged to the company of a ship whose crew faced internment and which was in fact dismantled later. This position would undoubtedly be correct if the officers had not left the ship until after internment, as in that case the whole crew should be treated exactly like troops that cross the border of a neutral country. As a matter of fact, however, H. M. S. *Geier* was not dismantled until the 7th of this month and the official communication of Under Secretary of State Lansing which spoke of the disarmament of H. M. S. *Geier* under certain conditions is dated October 30. As to this I have the honor to inform Your Excellency that the interned officers and their orderlies had already left Honolulu on the 28th of October, that is, before the question of interning the crew of H. M. S. *Geier* had come up. It is therefore not a fact that those officers and men belonged to the company of a ship on the point of being interned.

In this connection I would draw Your Excellency's attention to the treatment accorded to the British Major Robertson. That officer was allowed by the like American authorities to proceed on his journey, although it was shown that he had taken an active part in the war against Germany by fighting in the battle before Tsingtau. As this discrimination in the treatment of German and English officers appears to me to be difficult to explain, I have the honor to beg Your Excellency to cause this question to be again examined in the light of the neutrality of the United States and kindly to procure for the officers of H. M. S. *Geier* and their orderlies permission to travel freely.

Accept, etc.,

J. BERNSTORFF.

*The Secretary of State to the German Ambassador.*DEPARTMENT OF STATE,
Washington, November 12, 1914.

EXCELLENCY:

I have the honor to advise you of the receipt of a letter from the Secretary of the Treasury, stating that a telegram has been received from the collector of customs at Honolulu, reporting that, on November 8, 1914, the German naval vessels *Geier* and *Locksun* were interned there.

Accept, etc.,

W. J. BRYAN.

The Acting Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, November 27, 1914.

EXCELLENCY:

The Department has received your note of the 11th instant in regard to the two officers of *H. M. S. Geier* and their orderlies, who left that vessel before it was interned, but who have with the remainder of its complement been interned within United States jurisdiction. You ask that, as the actual internment of the vessel took place on the 7th instant, and as the officers and their orderlies left Honolulu on the 28th ultimo, the case be reëxamined and the officers and their orderlies be released.

In reply I have the honor to advise you that the case has been carefully reëxamined and that this Government, in its observance of a strict neutrality, is under obligation to retain these gentlemen in custody as a part of the *Geier's* company when she entered American jurisdiction. It appears that these men were not only duly incorporated in the armed forces of Germany, a belligerent power, but were also in a sense a part of an organized body of such forces entering a neutral port. In such a case the laws of maritime warfare permit a limited hospitality to be extended to them, dependent upon their observing certain conditions. In the case of the *Geier*, these conditions were, it is believed, very generous. After a delay of several days within the hospitality of the United States, instead of the conventional twenty-four hours, these officers and their orderlies appear to have been granted sick leave by the captain of the *Geier*. This fact, however, cannot, it is believed, properly be urged as separating them from the *Geier* in relation to its subsequent treatment. They arrived within United States jurisdiction as a part of an organized armed force of the German Empire, and this fact, in the opinion of this Government, appears to be the crux of the whole matter. Were a distinction to be made on the grounds set forth in your note a ship in danger from her enemy might enter a neutral port, and before the twenty-four-hour period had elapsed, and before there was any danger of internment, her officers and crew might leave her and afterwards claim the right to return to their country as individuals. This course would manifestly not comport with the principles of neutrality as they are understood by the Department.

Your Excellency compares the case of these officers and men of *H. M. S. Geier* with that of Major Robertson of the British Army,

who appears to have been taken into custody by American officers and shortly thereafter released. The Department is of the opinion that the two incidents have no essential resemblance. Major Robertson arrived in the United States as an individual and not as a part of an organized military body traveling together. The United States, therefore, in its governmental capacity as a neutral, was not bound under the principles of international law to intern him or to interfere with his freedom of movement so long as his conduct did not infringe the proprieties of international or municipal law.

The Department regrets, therefore, to advise you that this Government, after having carefully reëxamined the case, does not see its way to release the officers and their orderlies in question, or to consider them other than as a part of the complement of *H. M. S. Geier*, which the United States Government has been under the necessity of having interned during the continuance of the present war.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, March 18, 1915.

EXCELLENCY:

The Department of State has received from the Navy Department the report of the board of naval officers who made an examination of *H. M. S. Prinz Eitel Friedrich*, now in the harbor of Newport News, Va., with a view to ascertaining the repairs necessary to put the vessel in a thoroughly seaworthy condition, and from this report it appears that the time required for these repairs will be a period of fourteen working days. The Government has concluded, therefore, that *H. M. S. Prinz Eitel Friedrich* will be allowed until midnight of the close of the 6th day of April next to complete her repairs, and that she will be allowed twenty-four hours in addition, or until midnight of the 7th day of April, to leave the territorial waters of the United States, or failing this that she will be under the necessity of accepting internment within American jurisdiction during the continuance of the wars in which your country is now engaged.

This information has been confidentially conveyed to the Treasury Department with the request that it be transmitted immediately to the commander of *H. M. S. Prinz Eitel Friedrich*.

Accept, etc.,

W. J. BRYAN.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, D. C., April 8, 1915.

MR. SECRETARY OF STATE:

I have the honor to express to Your Excellency my most sincere thanks for the accommodating treatment accorded H. M. S. *Prinz Eitel Friedrich* during her stay at Newport News. I have been especially gratified to hear that the Government of the United States had taken far-reaching safety measures for the protection of the ship from the various menaces of an attack.

I venture therefore respectfully to beg Your Excellency kindly to convey this expression of my thanks to the Departments and officials concerned. Neither shall I fail to apprise my Government of the attention shown H. M. S. *Prinz Eitel Friedrich*.

Accept, etc.,

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, D. C., April 12, 1915.

MR. SECRETARY OF STATE:

In continuation of my note of the 11th instant¹ I have the honor to inform Your Excellency that H. M. S. *Kronprinz Wilhelm* would like to land at Newport News sixty-one persons belonging to the crews of enemy vessels sunk by her.

The ship further stands in urgent need of repairs to restore her seaworthiness and has to replenish her supply of coal and provisions. The commander has asked me to procure for him permission to undergo the aforesaid necessary repairs at the Newport News shipyard, and announced that the extent and time of the repairs could only be made known upon the completion of the survey now on foot.

In compliance with the request of the commander of H. M. S. *Kronprinz Wilhelm*, I beg Your Excellency to take the necessary measures and in particular to allow the ship to stay at Newport News

¹ Not printed.

beyond the twenty-four hours prescribed by law in accordance with Article 14 of the 13th Convention of the 2d Conference of The Hague of October 18, 1907.

Accept, etc.,

For the Imperial Ambassador,
HANIEL.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 21, 1915.

EXCELLENCY:

In reply to your note of the 12th instant requesting the hospitality of the port of Norfolk for H. M. S. *Kronprinz Wilhelm*, I have the honor to inform you that the Department has received the report of the board of naval officers who have made an examination of the cruiser with a view to ascertaining the repairs which the vessel may undergo in American waters. From this report it appears that the time required for repairs will consume a period of six working days, but that the proposed repairs will not cover the damage to the port side of the cruiser incident to the service in which the vessel has been engaged.

The Government has concluded, therefore, that H. M. S. *Kronprinz Wilhelm* will be allowed until midnight of the close of the 29th day of April next to complete the proposed repairs in the port of Norfolk, and that she will be allowed twenty-four hours in addition, or until midnight of 30th day of April, to leave the territorial waters of the United States, or, failing this, that she will be under the necessity of accepting internment within American jurisdiction during the continuance of the wars in which your country is now engaged.

It is expected that in accordance with the President's proclamations of neutrality H. M. S. *Kronprinz Wilhelm* will not depart from the port of Norfolk within twenty-four hours after a vessel of an opposing belligerent shall have departed therefrom.

This information has been confidentially conveyed to the collector of customs at Norfolk for transmittal to the commander of the *Kronprinz Wilhelm*.

Accept, etc.,

For the Secretary of State,
ROBERT LANSING.

PART IX.

ESCAPE OF OFFICERS AND MEN FROM GERMAN SHIPS
INTERNEED IN THE UNITED STATES.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, November 16, 1915.

EXCELLENCY:

With reference to the German vessels and crews now interned in American ports, I have the honor to call your attention to the following facts relating to the escape from time to time of certain paroled officers and men from these vessels.

On October 10, 1915, six officers, Vizesteuermann Heinrich Hoffman, Heinrich Ruedebusch, Wilhelm Forstreuter, Erich Biermann, and Ing. Aspirants Julius Lustfeld and Walter Fischer, of the German cruiser *Kronprinz Wilhelm*, interned at Norfolk, Va., received permission to go ashore and to return by 8 a. m. October 11. These officers have not been seen since, and are supposed to have departed on board the yacht *Eclipse*, which was purchased by Vizesteuermann Hoffman shortly before their departure.

On September 29, 1915, Marine Stabsarzt, Dr. Kreuger Kroneck, and Lieutenant zur See Koch, of the German cruiser *Prinz Eitel Friedrich*, were given permission to go on a visit to New York City and Niagara Falls and to return to their ship on October 16th. These officers, however, have not returned to their ship and were seen in the Pennsylvania Railroad Station, New York City, on October 17.

The German cruiser *Prinz Eitel Friedrich* arrived in American jurisdiction on March 10th, 1915, and was interned on April 9th, 1915. On March 10th, the Commanding Officer was directed to allow none of his officers or crew on shore for the present. The Commander acknowledged the receipt of this notice and stated that he would act accordingly. On March 12th the Commanding Officer asked permission for his officers and men to go ashore, if they did not leave Newport News. On March 17, 1915, two days prior to the granting of the Commander's request, the Executive Officer, i.e., the second officer in command, Otto Brauer, left the ship. The Department now has reliable information that Brauer has returned to Germany and is on duty on board the Cruiser *Lutzow* at Danzig.

Dr. Nolte was granted leave of absence from the *Prinz Eitel Friedrich* to go to Newport News and Old Point Comfort, Va., and return on May 13th last. Dr. Nolte has not, as yet, returned to his ship.

On or about June 14, 1915, Herman Deike, Engineer Officer of the *Locksun*, interned at Honolulu, left his ship and is yet absent in violation of his parole.

In view of the apparent disregard of these members of the complements of the interned vessels at Norfolk for their word of honor while on parole, the Navy Department, on October 14, 1915, was under the necessity of ordering that no officers or men be allowed to leave the ships until the absent officers and seamen had returned.

Notwithstanding this order, on October 15, 1915, two members of the crew of the *Kronprinz Wilhelm* attempted to board the Dutch steamship *Maar Tensdyk* at Newport News, in an endeavor to escape. Seaman Sturm was apprehended and his companion, Seaman Kasper, returned to the *Kronprinz Wilhelm* of his own volition. Also, on November 12, 1915, Fireman Thiery was found absent from the *Prinz Eitel Friedrich* at muster, having escaped from his ship.

The incidents related have occurred notwithstanding the fact that at the time of the internment of these vessels each Commanding Officer gave a pledge for "himself, officers, and crews not to commit any unneutral acts and not to leave limits prescribed in paroles." I therefore regret to have to inform Your Excellency that the United States Government regards the actions of these men as contrary to its express instructions and as breaches of the honorable conduct to be expected of officers and men of visiting and interned ships of war of a belligerent nation, and that consequently the Government has been forced to discontinue the custom of paroling the interned officers and men on their honor and otherwise to circumscribe the very liberal privileges which they have heretofore been allowed to enjoy.

It will be recalled that during the Russo-Japanese War, when the Russian Ship *Lena* was interned by United States Authorities on the Pacific coast, three officers of that ship escaped and returned to Russia; and that upon the Government of the United States calling the matter to the attention of the Russian Government it immediately caused the escaped officers to return to American jurisdiction, where they were interned for the remainder of the war.

This precedent this Government regards as in accord with the best practice of nations and applicable to the cases which I have had the honor to present in this note.

I have no doubt, therefore, that upon Your Excellency's calling these incidents to the attention of the Imperial German Government, that Government will promptly direct that Otto Brauer and any others of the men mentioned who may now be within German jurisdiction, or who may hereafter come within such jurisdiction, be promptly returned to this country for internment with their respective ships.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 17, 1915.

Mr. Gerard is informed that the Department of State in a note dated November 16, 1915, called the attention of the German Ambassador at Washington to the escape at intervals of certain paroled German officers and men from ships interned in United States ports. The German Ambassador was also given full facts, giving officers' names and the circumstances under which they escaped. The Ambassador's attention was called to the case of the escape during the war between Russia and Japan of three officers of an interned Russian vessel, and that the American Government called the matter to the attention of the Government of Russia, who immediately caused the return of the escaped officers to American jurisdiction. The Ambassador was informed that this precedent is regarded as in accord with the practice of nations in the past and as applicable to the cases which are cited in the Department's note. The Department also stated that it had no doubt that the Ambassador would bring the facts promptly to the German Government's attention and that the German Government would direct the prompt return to the United States for internment with their respective vessels of the escaped officers and men who may now be or who may hereafter come within German jurisdiction.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, November 22, 1915.

MY DEAR MR. SECRETARY:

The Commanding Officer of H. M. S. *Prinz Eitel Friedrich*, informs me that the officers and crews of the interned German cruisers at Portsmouth, Va., are to be photographed by an order of the Com-

mandant of the Navy Yard at said place apparently as a means of preventing further escapes. Captain Thierichens for obvious reasons before complying has asked for further instructions. I realize that the deplorable escapes of the past, although inspired by patriotic motives, justify strict methods of surveillance, but believing that effective measures already have been taken to insure further escapes I would appreciate it greatly if these officers and crews could be spared the humiliation of having their photographs taken.

I am, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, November 23, 1915.

MY DEAR MR. AMBASSADOR:

I am in receipt of your letter of the 22d in regard to the photographing of the crews of the interned German cruisers at Portsmouth, Va.

I have had a conversation with the Secretary of the Navy on the subject and we have reached the conclusion that in view of the objections raised by the Commanding Officers of the cruisers the photographing of the crews will not take place at the present time.

I can assure you that it was with no purpose of humiliating the Germans who are interned that this plan was proposed, but you must realize that the violation of paroles by certain of the officers and members of the crews of these vessels has caused much embarrassment to this Government. I am convinced that you, as well as the Commanding Officers, are desirous that the honor of the German Navy should be preserved, and that the authorities here should apprehend any who violate their word. As the most expedient and practical plan of accomplishing this was to have the portraits of those who might escape published, it was thought well to photograph all the members of the crew as well as the officers. I cannot see, in view of what has occurred, why there should be any objection to this being done, but since it is so we will take other means to prevent a repetition of the escapes, although I consider that the redoubling of the vigilance of our naval Authorities is even more humiliation to the interned than to be photographed.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, November 24, 1915.

MR. SECRETARY OF STATE:

Pursuant to your kind note No. 1661 of the 16th instant, I first called in the commanding officers of H. M. S. *Kronprinz Wilhelm* and *Prinz Eitel Friedrich* for an explanation of the disappearance of some members of their crews. It appears from their report that the following petty officers left their ships in a dingey at about 4 o'clock on Sunday, the 10th of October: Quartermaster Ruedebusch, Hoffmann, Biermann, Forstreuter, Engineer Aspirants Lustfeld and Fischer. The commanding officer of H. M. S. *Kronprinz Wilhelm* reported the occurrence to the Commandant of the Newport News Navy Yard on the 15th ultimo. How the fugitives made good their escape could not be ascertained. Marine Staff surgeon Dr. Kruger-Kroneck and Lieutenant Koch have not returned from the leave that was granted them. The clandestine disappearance of Dr. Kruger-Kroneck is all the more unaccountable as he, being a physician, might have obtained release from internment in the same way as it was accommodatingly granted to a number of surgeons of the interned ships. Press reports indicate that Lieutenant Koch is now a prisoner in England. The present whereabouts of all the other absconders is not known to me or their superior officers.

Captain Lieutenant Bauer was still on board H. M. S. *Prinz Eitel Friedrich* on March 16, but was no longer there on the 17th. Until then the commanding officer had no other directions than that of letting no one go on shore and had accordingly notified his officers and men that there was no shore leave to be had for the time being. Not until the 19th of March did he receive permission for his crew to get leave to go to certain defined places on land: "Officers on parole and men under guard of American soldiers." Captain Lieutenant Koch therefore could not have broken his parole, but merely disobeyed orders. There can be no question, therefore, of his being sent back to the United States on the above-stated ground.

As for the seamen, Sturm and Kasper, they left the *Kronprinz Wilhelm* as early as October 14; their attempt to escape took place before the time when the Navy Department's order that no one should leave the ship became known to the ship as October 15, it being dated October 14.

I believe the foregoing particulars will prove of some help in clearing up the matter, which I have reported to my Government.

Accept, etc.,

J. BERNSTORFF.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 22, 1915.

Mr. Gerard is directed to inquire at the German Foreign Office as to whether the matter of the escape of interned German officers and men has been called to the attention of the Foreign Office by the German Ambassador in Washington, and if so to urge that the representations of the Department of State to the German Ambassador be promptly replied to by the German Government. A report by cable is requested.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, February 21, 1916.

SIR: With reference to my telegram No. 3508 of February 19, 1916, I have the honor to transmit herewith to the Department a copy and translation of the Foreign Office's note, dated February 16, 1916, regarding the escape of officers and men from the German auxiliary cruisers *Kronprinz Wilhelm* and *Prinz Eitel Friedrich*, at present interned in American ports.

I have, etc.,

For the Ambassador,
J. C. GREW.

[Inclosure—Translation.]

FOREIGN OFFICE,
Berlin, February 16, 1916.

The undersigned has the honor to inform His Excellency, the American Ambassador, Mr. James W. Gerard, in answer to the communication of December 24, 1915, regarding the escape of officers and men from the German auxiliary cruisers *Kronprinz Wilhelm* and *Prinz Eitel Friedrich*, at present interned in American ports, that the matter has been brought to the attention of the German Naval Administration. According to the investigations made by the latter, the commanders of the two auxiliary cruisers, unfortunately, did not sufficiently instruct their officers and crews regarding the significance of the "assurance" ("Versicherung") given by them. Moreover,

the expression "pledge" chosen by Rear Admiral Beatty in his letter to the commanders does not conform absolutely to the idea of the "word of honor" (Ehrenwort). The persons who escaped, therefore, were obviously convinced that they would not, through their act, render themselves guilty of a breach of their word of honor.

The German Government acknowledges the fact, however, that the members of the crew—and only they—who escaped after the "assurance" ("Versicherung") of the commanders had been given on April 13 and May 5, 1915, respectively, were in the wrong towards the American Government, and that they are to be sent back to their vessels. Of the persons mentioned in the note of the American Government to the German Ambassador at Washington of November 16, 1915, No. 1661, the following are therefore concerned: Marine-Stabsarzt Krüger-Kroneck, Leutnant zur See Koch, Dr. Nolte, Vize-Steuermann der Reserve Hoffmann, Vize-Steuermann der Reserve Ruedebusch, Vize-Steuermann der Reserve Forstreuter, Vize-Steuermann der Reserve Biermann, Ingenieur-Aspirant der Reserve Lustfeld, Ingenieur-Aspirant der Reserve Fischer, Heizer Thierry.

Of these persons, only Stabsarzt Krüger-Kroneck returned so far to Germany. He will be instructed to return to his vessel as soon as the American Government has obtained safe-conduct for him from the hostile Governments.

The German Government states expressly that by the return on board his ship of Stabsarzt Krüger-Kroneck the question is not touched whether, after his return, his release later on may not have to be granted in accordance with The Hague Convention regarding the application of the rules of the Geneva Convention to naval warfare.

In requesting to bring the foregoing to the attention of the American Government, the undersigned avails himself, etc.,

ZIMMERMANN.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 9, 1916.

Mr. Gerard is informed that the reply of the German Foreign Office regarding the escape of officers and men of the German Cruisers at present interned in ports of the United States was referred to the Navy Department. In reply the position is taken by the Navy Department that the *Kronprinz Wilhelm* and the *Prinz Eitel Friedrich* sought refuge in an American port and agreed to be interned. Therefore, the obligation of remaining with their vessels rested wholly with the officers of those vessels.

That these officers are not cognizant of the principles of international law cannot be assumed. Promises were given in writing by the captains of the two vessels for themselves, the officers, and the crews of the vessels that they would in no way violate American neutrality during their internment. It seems to be indicated by the answer of the German naval administration that it does not appreciate fully the seriousness of the obligation assumed thus by their naval representatives on the two vessels in question to remain within the assigned limits with the minimum of trouble to the Government of the country in which they are interned. They were considered as guests of the American Government and not as prisoners of war, and as such guests permission was given them to leave the navy yard and to visit on leave any part of the United States. Lieutenant zur See Koch and Dr. Krüger-Kroneck, after having availed themselves of the permission mentioned to leave the limits of their internment, failed to return as they were unquestionably bound to do. Furthermore, money was supplied by Dr. Kroneck with which the yacht *Eclipse* was purchased by six officers of the *Kronprinz Wilhelm* who escaped from the jurisdiction of the Government of the United States. Should the return of Dr. Kroneck be effected the Government of the United States should not consent to his release under the application to naval officers of the Geneva Convention rules, as on account of considerable sickness on the interned ships his presence on board is necessary. No mention is made in the reply of the German Foreign Office of Otto Brauer, the Executive Officer of the ship *Prinz Eitel Friedrich*, who left that ship after the captain of the vessel had been requested by the Government of the United States not to give permission to his officers or men to go on shore, which request was acknowledged by the captain who stated that he would act in accordance therewith. It cannot be conceived by the Navy Department that the Executive Officer, the next in command, was ignorant of this request of the Government of the United States. The departure of Otto Brauer, the Executive Officer, was taken against this Government's express direction, and the Navy Department is of the opinion that he should be returned to the jurisdiction of the Government of the United States. Also in the case of the engineer officer, Herman Dieke, of the *Locksun*, interned at Honolulu, who, while on parole, absented himself, no reply is made. The full reply of the Navy Department is being sent by mail to Mr. Gerard, who is directed to present the views of the Government of the United States, and to say that the Department would be glad to have an early reply.

PART X.

ATTEMPT OF GERMAN SHIP *ODENWALD* TO SAIL
WITHOUT CLEARANCE PAPERS.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, April 1, 1915.

MR. SECRETARY OF STATE:

On the 18th of last month the German steamer *Odenwald* lying in the port of San Juan de Porto Rico applied for clearance for Hamburg. The collector of customs then declared that he had to inquire of Washington whether the steamer could be cleared. On the 19th the steamer was subjected to a thorough search, alleged to have been ordered from Washington. The search, according to the statement of the collector of customs, proved satisfactory in every respect. The ship's cargo consisted of 1,500 tons of coal and provisions. On the 20th of March the same official again conducted another strict inspection. Clearance papers were nevertheless again refused as they had been the day before on the plea that no answer had yet come from Washington. The collector of customs urged by the agent of the Hamburg-American Line promised, however, to send an urgent telegram that night to Washington.

Again on the next day (March 21) the ship's captain waited in vain for a final decision. Thus he decided to put to sea without clearance papers. The captain, so he asserts, found himself in a critical situation as further delay made the danger of enemy cruisers gathering worse every day. With that situation he tried to deal fairly in taking the course he did.

Just before passing Buoys H C and Co the ship met with a brisk machine-gun fire from Morro Castle. A few minutes later a solid cannon shot struck the water a short distance in front of the ship's bow, raising a column of water from ten to twelve feet high. The engine was immediately stopped and backed at full speed. The forward motion of the ship ceased at once in spite of which she was fired upon about three minutes longer; marks of the bullets can be plainly seen in various places of the ship and hull. It was only through luck that no human life was lost in that onslaught.

A few affidavits¹ fully describing the occurrence are respectfully inclosed with a request that they be returned.

I have the honor to beg Your Excellency kindly to let me know why her papers were not delivered to the *Odenwald* though in the opinion of the harbor officials after two thorough searches of the ship

¹ Not printed.

they had no ground upon which to refuse the said papers. Finally, I am unable to conceal from Your Excellency that the reckless action of the harbor authorities in opening fire on the steamer without warning does not seem to me to have been justified by the circumstances of the case. It could hardly be the intention of the American Government to endanger, without imperative cause, the lives of a ship's crew for the mere sake of insuring orderly traffic in the harbor.

Accept, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, May 3, 1915.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of April 1 last in relation to the refusal of the United States collector of customs at San Juan, Porto Rico, to clear the German steamer *Odenwald* for Hamburg with a cargo of 1,500 tons of coal and provisions. Your Excellency reviews certain circumstances connected with this incident and states that after two thorough searches of the vessel, application for clearance was denied by the collector on the plea that he had as yet received no instructions from Washington authorizing clearance and that the captain finally decided to put to sea without clearance papers, as further delay would cause increased danger from enemy cruisers which were gathering off the port.

Your Excellency further states that as the ship was leaving the harbor on the afternoon of Sunday, March 21, she "met with a brisk machine-gun fire from Morro Castle. A few minutes later a solid cannon shot struck the water a short distance in front of the ship's bow, raising a column of water from ten to twelve feet high. The engine was immediately stopped and backed at full speed. The forward motion of the ship ceased at once, in spite of which she was fired upon about three minutes longer. Marks of the bullets can be plainly seen in various places of the ship and hull. It was only through luck that no human life was lost in that onslaught."

The foregoing statements are based on affidavits by the German Consul in Porto Rico, the captain of the *Odenwald*, the first officer, the third officer, and the chief engineer, which you inclosed.

Your Excellency requests to be advised as to why the *Odenwald's* clearance papers were refused, though in the opinion of the harbor

officials, after two thorough inspections of the vessel, there was no ground upon which to decline to issue the papers, and Your Excellency declares that "the reckless action of the harbor authorities in opening fire on the steamer without warning" does not seem to you to have been "justified by the circumstances of the case, as it could hardly be the intention of the American Government to endanger, without imperative cause, the lives of a ship's crew for the mere sake of insuring orderly traffic in the harbor."

In reply I have the honor to state that upon the report to this Government by the authorities at San Juan of certain circumstances surrounding the preparation of the *Odenwald* for sea an investigation was immediately instituted. Until the investigation was concluded and acted upon at Washington, the authorities at San Juan were instructed to decline to issue clearance papers to the *Odenwald*. While this investigation was pending, and while the collector of customs at San Juan was acting under these instructions, the captain of the *Odenwald* reached the determination that he would depart without authorized clearance and in open violation of the customs laws of the United States. Circumstances, which it does not seem necessary to relate here, have shown that the suspicions as to the *bona fides* of the application for clearance, which had been aroused by the preparations for sailing by the officers of the *Odenwald*, acting in conjunction with the officers of the German steamer *President*, lying in the same harbor, were well founded, and that this Government and its officers at San Juan were justified in the course which they took in deferring the clearance of the *Odenwald*. Irrespective of the substantial grounds for the suspicions of the port officials at San Juan, the fact remains that the *Odenwald* in her endeavor to leave port on March 21 last without papers committed a willful breach of the navigation laws of the United States, because of which judicial proceedings have been brought by the United States against the vessel and the persons concerned in her illegal conduct which make it necessary for the United States authorities to employ force to prevent her unauthorized departure on a mission which this Government felt at the time might constitute a breach of the neutrality of the United States and result in a possible claim for lack of due diligence on the part of this Government in performing its neutral duties.

As to the assertion that the reckless action of the port authorities in their exercise of force endangered human lives on board the *Odenwald*, I have the honor to inform Your Excellency that this Govern-

ment has had instituted a thorough and searching investigation into the circumstances of the attempted sailing and arrest of the *Odenwald* on March 21. The result of this investigation, which is supported by the statements and affidavits of the officers of the customs, as well as of the military officers in charge of the defenses of the port, establish the following facts:

On March 19, at a conference between the collector of customs, Col. Burnham, United States Army, the German consul, the captain of the *Odenwald*, and others, the captain of the vessel was informed by Col. Burnham that the latter would use whatever force was necessary in order to prevent the *Odenwald* from leaving port without the necessary custom-house clearance and that he would go to the length of using the guns of his command in the forts for this purpose.

On March 20, at another conference between the same persons, a similar statement was made to the captain of the *Odenwald*, and it was arranged to place an armed party on board the vessel, unless the captain, the vessel's agents, and the German consul would give assurances that no attempt would be made to leave without proper papers. Promises were given not to leave during the night of March 20-21. Nevertheless, it was discovered in the early morning hours of the 21st that officers from the German steamer *President* had boarded the *Odenwald* and that the machinery of the *Odenwald* was being put in motion. The port authorities thereupon again notified the chief officer of the *Odenwald* not to depart without clearance papers, warning him that the vessel would be closely watched and would be stopped by force if necessary.

On March 21, at about 3 p. m., the *Odenwald* raised anchor and started her engines. The customs officer on board the vessel at the time was told by the captain that if he desired to go ashore he could take the sail boat of the steamer *President*, which was at the gangway. The *Odenwald* had moved ahead about five lengths when the customs officers notified the captain that the vessel could not leave port without clearance papers. Notwithstanding this notice the vessel continued in motion, and the officer was under the necessity of leaving the ship while she was under weight.

As she passed San Augustin Bastion, 500 feet from Morro Castle, Captain Wood, United States Army, who was there stationed with a machine gun, hailed the vessel several times and ordered her to stop, in circumstances which made it impossible for the officers of the vessel not to have heard the order. The *Odenwald* nevertheless continued on her course, whereupon about seventy-five shots were fired

from the machine gun mounted on the bastion. These shots were aimed and fell a considerable distance in front and short of the *Odenwald*. In order not to endanger craft which appeared ahead of the *Odenwald* as she proceeded, fifteen shots were fired from the machine gun, which fell off the stern of the vessel. Although these were small solid shots, they were used as a warning, because it is not possible to use blank cartridges in a machine gun. The machine gun was not aimed at the *Odenwald*, nor did any of the shots strike the vessel. Any marks on the *Odenwald's* hull, which is old and scarred through many months of sea service, were made by other causes than by machine-gun bullets striking the vessel, according to the proofs laid before this Government.

The *Odenwald* did not heed this warning or slacken her speed. Thereupon a 4.7-inch gun on the Morro Castle was aimed and fired under the personal direction of Col. Burnham. The shot struck at least 300 yards in front of the *Odenwald* and short of her projected course. The vessel then stopped and was taken back to her anchorage under the direction of a pilot. No machine-gun shots could have been fired from Morro Castle, as no machine guns are mounted at that fort.

It will be observed that six distinct warnings were given to the captain of the *Odenwald* that force would be used in case he attempted to leave the harbor without the clearance papers required by law, namely, at the conferences on March 19 and March 20, twice by the customs officers on board the vessel on March 21, by the orders of Captain Wood from the bastion, and by the shots from his machine gun. None of these warnings was heeded by the captain, who persisted in his determination to leave port in violation of the laws of the United States, until the warning shot from Morro Castle induced him to obey the regulations of the port.

Your Excellency will perceive from the foregoing statement of facts that the United States authorities at San Juan in the performance of their duties avoided any act endangering the safety of the vessel and the lives of the persons on board and exercised no greater force than was necessary to prevent the illegal departure of the *Odenwald* from the port of San Juan.

I have the honor, in accordance with Your Excellency's request, to return herewith the affidavits transmitted with your note under acknowledgment.

Accept, etc.,

W. J. BRYAN.

PART XI.

CASE OF THE *WILLIAM P. FRYE*.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 31, 1915.

You are instructed to present the following note to the German Foreign Office:

Under instructions from my Government I have the honor to present a claim for \$228,059.54, with interest from January 28, 1915, against the German Government on behalf of the owners and captain of the American sailing vessel *William P. Frye* for damages suffered by them on account of the destruction of that vessel on the high seas by the German armed cruiser *Prinz Eitel Friedrich*, on January 28, 1915.

The facts upon which this claim arises and by reason of which the German Government is held responsible by the Government of the United States for the attendant loss and damages are briefly as follows:

The *William P. Frye*, a steel sailing vessel of 3,374 tons gross tonnage, owned by American citizens and sailing under the United States flag and register, cleared from Seattle, Wash., November 4, 1914, under charter to M. H. Houser, of Portland, Ore., bound for Queens-town, Falmouth, or Plymouth for orders, with a cargo consisting solely of 186,950 bushels of wheat owned by the aforesaid Houser and consigned "unto order or to its assigns," all of which appears from the ship's papers which were taken from the vessel at the time of her destruction by the commander of the German cruiser.

On January 27, 1915, the *Prinz Eitel Friedrich* encountered the *Frye* on the high seas, compelled her to stop, and sent on board an armed boarding party, who took possession. After an examination of the ship's papers the commander of the cruiser directed that the cargo be thrown overboard, but subsequently decided to destroy the vessel, and on the following morning, by his order, the *Frye* was sunk.

The claim of the owners and captain consists of the following items:

Value of ship, equipment, and outfit.....	\$150,000.00
Actual freight as per freight list, 5034	
1000/2240 tons at 32-6—£8180-19-6 at	
\$4.86	39,759.54
Traveling and other expenses of Capt.	

Kiehne and Arthur Sewall & Co., agents of ship, in connection with making affi- davits, preparing and filing claim.....	500.00
Personal effects of Capt. H. H. Kiehne...	300.00
Damages covering loss due to deprivation of use of ship.....	37,500.00
Total.....	\$228,059.54

By direction of my Government, I have the honor to request that full reparation be made by the German Government for the destruction of the *William P. Frye* by the German cruiser *Prinz Eitel Friedrich*.
BRYAN.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, April 5, 1915.

The following is translation of the reply of the Foreign Office to my note of April 3:

GERMAN FOREIGN OFFICE,
Berlin, April 5, 1915.

The undersigned has the honor to make reply to the note of his Excellency, Mr. James W. Gerard, Ambassador, the United States of America, dated the 3d instant, Foreign Office No. 2892, relative to claims for damages for the sinking of the American merchant vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich*.

According to the reports which have reached the German Government the commander of the *Prinz Eitel Friedrich* stopped the *William P. Frye* on the high seas January 27, 1915, and searched her. He found on board a cargo of wheat consigned to Queenstown, Falmouth, or Plymouth to order. After he had first tried to remove the cargo from the *William P. Frye* he took the ship's papers and her crew on board and sank ship.

It results from these facts that the German commander acted quite in accordance with the principles of international law as laid down in the Declaration of London and the German prize ordinance. The ports of Queenstown, Falmouth, and Plymouth, whither the ship visited was bound, are strongly fortified English coast places, which, moreover, serve as bases for the British naval forces. The cargo of wheat being food or foodstuffs, was conditional contraband within the meaning of Article 24, No. 1, of the Declaration of London, and Article 23, No. 1, of the German prize ordinance, and was therefore to be considered as destined for the armed forces of the enemy, pursuant to Articles 33 and 34 of the Declaration of London and Articles 32 and 33 of the German prize ordinance, and to be treated as contra-

band pending proof of the contrary. This proof was certainly not capable of being adduced at the time of the visiting of the vessel, since the cargo papers read to order. This, however, furnished the conditions under which, pursuant to Article 49 of the Declaration of London and Article 113 of the German prize ordinance the sinking of the ship was permissible, since it was not possible for the auxiliary cruiser to take the prize into a German port without involving danger to its own security or the success of its operations. The duties devolving upon the cruiser before destruction of the ship, pursuant to Article 50 of the Declaration of London and Article 116 of the German prize ordinance, were fulfilled by the cruiser in that it took on board all the persons found on the sailing vessel, as well as the ship's papers.

The legality of the measures taken by the German commander is furthermore subject to examination by the German prize court pursuant to Article 51 of the Declaration of London and section 1, No. 2, of the German Code of Prize Procedure. These prize proceedings will be instituted before the prize court at Hamburg as soon as the ship's papers are received and will comprise the settlement of questions whether the destruction of the cargo and the ship was necessary within the meaning of Article 49 of the Declaration of London; whether the property sunk was liable to capture; and whether, or to what extent, indemnity is to be awarded the owners. In the trial the owners of ship and cargo would be at liberty, pursuant to Article 34, paragraph 3, of the Declaration of London, to adduce proof that the cargo of wheat had an innocent destination and did not, therefore, have the character of contraband. If such proof is not adduced, the German Government would not be liable for any compensation whatever, according to the general principles of international law.

However, the legal situation is somewhat different in the light of the special stipulations applicable to the relations between Germany and the United States since Article 13 of the Prussian-American treaty of friendship and commerce of July 11, 1799, taken in connection with Article 12 of Prussian-American treaty of commerce and navigation of May 1, 1828, provides that contraband belonging to the subjects or citizens of either party cannot be confiscated by the other in any case but only detained or used in consideration of payment of the full value of the same. On the ground of this treaty stipulation which is as a matter of course binding on the German prize court the American owners of ship and cargo would receive compensation even if the court should declare the cargo of wheat to be contraband. Nevertheless the approaching prize proceedings are not rendered superfluous since the competent prize court must examine into the legality of the capture and destruction and also pronounce upon the standing of the claimants and the amount of indemnity.

The undersigned begs to suggest that the Ambassador bring the above to the knowledge of his Government and avails himself, etc.

(Signed) JAGOW.

April 4, 1915.

GERARD.

The Secretary of State to Ambassador Gerard.

DEPARTMENT OF STATE,
Washington, April 28, 1915.

You are instructed to present the following note to the German Foreign Office:

In reply to Your Excellency's note of the 5th instant, which the Government of the United States understands admits the liability of the Imperial German Government for the damages resulting from the sinking of the American sailing vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich* on January 28 last, I have the honor to say, by direction of my Government, that while the promptness with which the Imperial German Government has admitted its liability is highly appreciated, my Government feels that it would be inappropriate in the circumstances of this case, and would involve unnecessary delay to adopt the suggestion in your note that the legality of the capture and destruction, the standing of the claimants, and the amount of indemnity should be submitted to a prize court.

Unquestionably the destruction of this vessel was a violation of the obligations imposed upon the Imperial German Government under existing treaty stipulations between the United States and Prussia, and the United States Government, by virtue of its treaty rights, has presented to the Imperial German Government a claim for indemnity on account of the resulting damages suffered by American citizens. The liability of the Imperial German Government and the standing of the claimants as American citizens and the amount of indemnity are all questions which lend themselves to diplomatic negotiation between the two Governments, and happily the question of liability has already been settled in that way. The status of the claimants and the amount of the indemnity are the only questions remaining to be settled, and it is appropriate that they should be dealt with in the same way.

The Government of the United States fully understands that, as stated in Your Excellency's note, the German Government is liable under the treaty provisions above mentioned for the damages arising from the destruction of the cargo as well as from the destruction of the vessel. But it will be observed that the claim under discussion does not include damages for the destruction of the cargo, and the question of the value of the cargo therefore is not involved in the present discussion.

The Government of the United States recognizes that the German Government will wish to be satisfied as to the American ownership of the vessel, and the amount of the damages sustained in consequence of her destruction.

These matters are readily ascertainable and if the German Government desires any further evidence in substantiation of the claim on these points in addition to that furnished by the ship's papers,

which are already in the possession of the German Government, any additional evidence found necessary will be produced. In that case, however, inasmuch as any evidence which the German Government may wish to have produced is more accessible and can more conveniently be examined in the United States than elsewhere, on account of the presence there of the owners and captain of the *William P. Frye* and their documentary records, and other possible witnesses, the Government of the United States ventures to suggest the advisability of transferring the negotiations for the settlement of these points to the Imperial German Embassy at Washington.

In view of the admission of liability by reason of specific treaty stipulations, it has become unnecessary to enter into a discussion of the meaning and effect of the Declaration of London, which is given some prominence in Your Excellency's note of April 5, further than to say that, as the German Government has already been advised, the Government of the United States does not regard the Declaration of London as in force.

BRYAN.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, June 7, 1915.

The following is the text of the reply of the German Government in the *Frye* case:

The undersigned has the honor to make the following reply to the note of His Excellency Mr. James W. Gerard, Ambassador of the United States of America, dated April 30, 1915 (F. O. No. 3291), on the subject of the sinking of the American sailing vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich*:

The German Government cannot admit that, as the American Government assumes, the destruction of the sailing vessel mentioned constitutes a violation of the treaties concluded between Prussia and the United States at an earlier date and now applicable to the relations between the German Empire and the United States or of the American rights derived therefrom. For these treaties did not have the intention of depriving one of the contracting parties engaged in war of the right of stopping the supply of contraband to his enemy when he recognizes the supply of such articles as detrimental to his military interests. On the contrary, Article 13 of the Prussian-American Treaty of July 11, 1799, expressly reserves to the party at war the right to stop the carrying of contraband and to detain the contraband; it follows then that if it cannot be accomplished in

any other way, the stopping of the supply may in the extreme case be effected by the destruction of the contraband and of the ship carrying it. As a matter of course, the obligation of the party at war to pay compensation to the interested persons of the neutral contracting party remains in force whatever be the manner of stopping the supply.

According to general principles of international law, any exercise of the right of control over the trade in contraband is subject to the decision of the Prize Courts, even though such right may be restricted by special treaties. At the beginning of the present war Germany, pursuant to these principles, established by law prize jurisdiction for cases of the kind under consideration. The case of the *William P. Frye* is likewise subject to the German prize jurisdiction, for the Prussian-American Treaties mentioned contain no stipulation as to how the amount of the compensation provided by Article 13 of the treaty cited is to be fixed. The German Government, therefore, complies with its treaty obligations to a full extent when the Prize Courts instituted by it in accordance with international law proceed in pursuance of the treaty stipulations and thus award the American interested persons equitable indemnity. There would, therefore, be no foundation for a claim of the American Government, unless the Prize Courts should not grant indemnity in accordance with the treaty; in such an event, however, the German Government would not hesitate to arrange for equitable indemnity notwithstanding. For the rest, prize proceedings in the case of the *Frye* are indispensable, apart from the American claims, for the reason that other claims of neutral and enemy interested parties are to be considered in the matter.

As was stated in the note of April 4 last, the Prize Court will have to decide the questions whether the destruction of the ship and cargo was legal; whether and under what conditions the property sunk was liable to confiscation, and to whom and in what amount indemnity is to be paid provided application therefor is received. Since the decision of the Prize Court must first be awaited before any further position is taken by the German Government, the simplest way for the American interested parties to settle their claims would be to enter them in the competent quarter in accordance with the provisions of the German Code of Prize Procedure.

The undersigned begs to suggest that the Ambassador bring the above to the knowledge of his Government, and avails himself at the same time of the opportunity to renew the assurances of his most distinguished consideration.

(Signed)

V. JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 24, 1915.

You are instructed to present the following note to the German Minister of Foreign Affairs:

I have the honor to inform Your Excellency that I duly communicated to my Government your note of the 7th instant on the subject of the claim presented in my note of April 3d last, on behalf of the owners and captain of the American sailing vessel *William P. Frye* in consequence of her destruction by the German auxiliary cruiser *Prinz Eitel Friedrich*.

In reply I am instructed by my Government to say that it has carefully considered the reasons given by the Imperial German Government for urging that this claim should be passed upon by the German Prize Court instead of being settled by direct diplomatic discussion between the two Governments, as proposed by the Government of the United States, and that it regrets to find that it cannot concur in the conclusions reached by the Imperial German Government.

As pointed out in my last note to you on this subject, dated April 30, the Government of the United States has considered that the only question under discussion was the method which should be adopted for ascertaining the amount of the indemnity to be paid under an admitted liability, and it notes with surprise that in addition to this question the Imperial German Government now desires to raise some questions as to the meaning and effect of the treaty stipulations under which it has admitted its liability.

If the Government of the United States correctly understands the position of the Imperial German Government as now presented, it is that the provisions of Article 13 of the Treaty of 1799 between the United States and Prussia, which is continued in force by the Treaty of 1828, justified the commander of the *Prinz Eitel Friedrich* in sinking the *William P. Frye*, although making the Imperial German Government liable for the damages suffered in consequence, and that inasmuch as the treaty provides no specific method for ascertaining the amount of indemnity to be paid, that question must be submitted to the German Prize Court for determination.

The Government of the United States, on the other hand, does not find in the treaty stipulations mentioned any justification for the sinking of the *Frye*, and does not consider that the German Prize Court has any jurisdiction over the question of the amount of indemnity to be paid by the Imperial German Government on account of its admitted liability for the destruction of an American vessel on the high seas.

You state in your note of the 7th instant that Article 13 of the

above-mentioned treaty of 1799 "expressly reserves to the party at war the right to stop the carrying of contraband and to detain the contraband; it follows then that if it cannot be accomplished in any other way, the stopping of the supply may in the extreme case be effected by the destruction of the contraband and of the ship carrying it."

The Government of the United States cannot concur in this conclusion. On the contrary, it holds that these treaty provisions do not authorize the destruction of a neutral vessel in any circumstances. By its express terms the treaty prohibits even the detention of a neutral vessel carrying contraband if the master of the vessel is willing to surrender the contraband. Article 13 provides "in the case supposed of a vessel stopped for articles of contraband if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage."

In this case the admitted facts show that pursuant to orders from the commander of the German cruiser, the master of the *Frye* undertook to throw overboard the cargo of that vessel, but that before the work of delivering out the cargo was finished the vessel with the cargo was sunk by order of the German commander.

For these reasons, even if it be assumed as Your Excellency has done, that the cargo was contraband, your contention that the destruction of the vessel was justified by the provisions of Article 13 does not seem to be well founded. The Government of the United States has not thought it necessary in the discussion of this case to go into the question of the contraband or noncontraband character of the cargo. The Imperial German Government has admitted that this question makes no difference so far as its liability for damages is concerned, and the result is the same so far as the justification for the sinking of the vessel is concerned. As shown above, if we assume that the cargo was contraband, the master of the *Frye* should have been allowed to deliver it out, and the vessel should have been allowed to proceed on her voyage.

On the other hand, if we assume that the cargo was noncontraband, the destruction either of the cargo or the vessel could not be justified in the circumstances of this case under any accepted rule of international law. Attention is also called to the provisions of Article 12 of the Treaty of 1785 between the United States and Prussia, which, like Article 13 of the Treaty of 1799, was continued in force by Article 12 of the Treaty of 1828. So far as the provisions of Article 12 of the Treaty of 1785 apply to the question under consideration, they are as follows:

"If one of the contracting parties should be engaged in war with any other Power, the free intercourse and commerce of the subjects or citizens of the party remaining neuter with the belligerent Powers shall not be interrupted. On the contrary, in that case, as in full peace the vessels of the neutral party may navigate freely to and

from the ports and on the coasts of the belligerent parties, free vessels making free goods, insomuch that all things shall be adjudged free which shall be on board any vessel belonging to the neutral party, although such things belong to an enemy of the other."

It seems clear to the Government of the United States, therefore, that whether the cargo of the *Frye* is regarded as contraband or as noncontraband, the destruction of the vessel was, as stated in my previous communication on this subject, "a violation of the obligations imposed upon the Imperial German Government under existing treaty stipulations between the United States and Prussia."

For these reasons the Government of the United States must disagree with the contention which it understands is now made by the Imperial German Government that an American vessel carrying contraband may be destroyed without liability or accountability beyond the payment of such compensation for damages as may be fixed by a German Prize Court. The issue thus presented arises on a disputed interpretation of treaty provisions, the settlement of which requires direct diplomatic discussion between the two Governments, and cannot properly be based upon the decision of the German Prize Court, which is in no way conclusive or binding upon the Government of the United States.

Moreover, even if no disputed question of treaty interpretation was involved, the admission by the Imperial German Government of its liability for damages for sinking the vessel would seem to make it unnecessary, so far as this claim is concerned, to ask the Prize Court to decide "whether the destruction of the ship and cargo was legal, and whether and under what conditions the property sunk was liable to confiscation," which, you state in your note dated June 7, are questions which should be decided by the Prize Court. In so far as these questions relate to the cargo, they are outside of the present discussion, because, as pointed out in my previous note to you on the subject dated April 30, "the claim under discussion does not include damages for the destruction of the cargo."

The real question between the two Governments is what reparation must be made for a breach of treaty obligations, and that is not a question which falls within the jurisdiction of a Prize Court.

In my first note on the subject the Government of the United States requested that "full reparation be made by the Imperial German Government for the destruction of the *William P. Frye*." Reparation necessarily includes an indemnity for the actual pecuniary loss sustained, and the Government of the United States takes this opportunity to assure the Imperial German Government that such an indemnity, if promptly paid, will be accepted as satisfactory reparation, but it does not rest with a Prize Court to determine what reparation should be made or what reparation would be satisfactory to the Government of the United States.

Your Excellency states in your note of June 7 that in the event the Prize Court should not grant indemnity in accordance with the treaty requirements, the German Government would not hesitate to arrange

for equitable indemnity, but it is also necessary that the Government of the United States should be satisfied with the amount of the indemnity, and it would seem to be more appropriate and convenient that an arrangement for equitable indemnity should be agreed upon now rather than later. The decision of the Prize Court, even on the question of the amount of indemnity to be paid, would not be binding or conclusive on the Government of the United States.

The Government of the United States also dissents from the view expressed in your note that "there would be no foundation for a claim of the American Government unless the Prize Courts should not grant indemnity in accordance with the treaty." The claim presented by the American Government is for an indemnity for a violation of a treaty, in distinction from an indemnity in accordance with the treaty, and therefore is a matter for adjustment by direct diplomatic discussion between the two Governments and is in no way dependent upon the action of a German Prize Court.

For the reasons above stated the Government of the United States cannot recognize the propriety of submitting the claim presented by it on behalf of the owners and captain of the *Frye* to the German Prize Court for settlement.

The Government of the United States is not concerned with any proceedings which the Imperial German Government may wish to take on "other claims of neutral and enemy interested parties" which have not been presented by the Government of the United States, but which you state in your note of June 7 make Prize Court proceedings in this case indispensable, and it does not perceive the necessity for postponing the settlement of the present claim pending the consideration of those other claims by the Prize Court.

The Government of the United States, therefore, suggests that the Imperial German Government reconsider the subject in the light of these considerations, and because of the objections against resorting to the Prize Court the Government of the United States renews its former suggestion that an effort be made to settle this claim by direct diplomatic negotiations.

LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, July 30, 1915.

Following note received:

FOREIGN OFFICE, *Berlin, July 30, 1915.*

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of the 26th ultimo, Foreign Office No. 3990, on the subject of the sinking of the American merchant vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich*, that the points of view brought out in the note have been carefully exam-

ined by the Imperial German Government. This examination has led to the following conclusions:

The Government of the United States believes that it is incumbent upon it to take the position that the treaty rights to which America is entitled, as contained in Article 12 of the Prussian-American treaty of amity and commerce of September 10, 1785, in Article 13 of the Prussian-American treaty of amity and commerce of July 11, 1799, were violated by the sinking of the *William P. Frye*. It interprets these articles as meaning that a merchantman of the neutral contracting party carrying contraband cannot in any circumstances be destroyed by a warship of the belligerent contracting party, and that the sinking of the *William P. Frye* was, therefore, in violation of the treaty, even if her cargo should have consisted of contraband, which it leaves outside of the discussion.

The German Government cannot accept this view. It insists as heretofore that the commander of the German auxiliary cruiser acted in the legal exercise of the right of control of trade in contraband enjoyed by warships of belligerent nations, and that the treaty stipulations mentioned merely oblige the German Government to make compensation for the damage sustained by the American citizens concerned.

It is not disputed by the American Government that, according to general principles of international law, a belligerent is authorized in sinking neutral vessels under almost any conditions for carrying contraband. As is well known, these principles were laid down in Articles 49 and 50 of the Declaration of London, and were recognized at that time by the duly empowered delegates of all the nations which participated in the conference, including the American delegates, to be declarative of existing international law (see preliminary clause of the Declaration of London); moreover, at the beginning of the present war, the American Government proposed to the belligerent nations to ratify the Declaration of London and give its provisions formal validity also.

The German Government has already explained in its note of April 4 last for what reasons it considers that the conditions justifying the sinking under international law were present in the case of the *William P. Frye*. The cargo consisted of conditional contraband, the destination of which for the hostile armed forces was to be presumed under the circumstances; no proof to overcome this presumption has been furnished. More than half the cargo of the vessel was contraband, so that the vessel was liable to confiscation. The attempt to bring the American vessel into a German port would have greatly imperiled the German vessel in the given situation of the war, and at any rate practically defeated the success of her further operations. Thus the authority for sinking the vessel was given according to general principles of international law.

There only remains then to be examined the question how far the Prussian-American treaty stipulations modify these principles of international law.

In this connection Article 12 of the treaty of 1785 provides that in the event of a war between one of the contracting parties with another power the free commerce and intercourse of the nationals of the party remaining neutral with the belligerent powers shall not be interrupted, but that on the contrary the vessel of the neutral party may navigate freely to and from the ports of the belligerent powers, even neutralizing enemy goods on board thereof. However, this article merely formulates general rules for the freedom of maritime intercourse and leaves the question of contraband untouched; the specific stipulations on this point are contained in the following article, which is materially identical with Article 13 of the treaty of 1799 now in force.

The plain intention of Article 13 is to establish a reasonable compromise between the military interests of the belligerent contracting party and the commercial interests of the neutral party. On the one hand the belligerent party is to have the right to prevent the transportation of war supplies to his adversaries even when carried on vessels of the neutral party; on the other hand the commerce and navigation of the neutral party is to be interfered with as little as possible by the measures necessary for such prevention, and reasonable compensation is to be paid for any inconvenience or damage which may nevertheless ensue from the proceeding of the belligerent party.

Article 13 recites the following means whereby the belligerent party can prevent the vessels of the neutral party from carrying war supplies to his adversary. The detention of the ship and cargo for such length of time as the belligerent may think necessary; furthermore the taking over of the war stores for his own use, paying the full value of the same as ascertained at the place of destination. The right of sinking is not mentioned in the treaty and is therefore neither expressly permitted nor expressly prohibited, so that on this point the party stipulations must be supplemented by the general rules of international law. From the meaning and spirit of the treaty it really appears out of the question that it was intended to expect of the belligerent that he should permit a vessel loaded with contraband, for example a shipment of arms and ammunition of decisive importance for the outcome of the war, to proceed unhindered to his enemy when circumstances forbid the carrying of the vessel into port, if the general rules of international law allow sinking of the vessel.

The remaining stipulations of Article 13 must likewise be considered in this light; they provide that the captain of a vessel stopped shall be allowed to proceed on his voyage if he delivers out the contraband to the warship which stopped his vessel. For such delivering out cannot of course be considered when the ensuing loss of time imperils either the warship herself or the success of her other operations. In the case of the *William P. Frye* the German commander at first tried to have matters settled by the delivery of contraband, but convinced himself of the impracticability of this attempt in that it would expose his ship to attack by whatever superior force of

enemy war vessels pursuing him and was accordingly obliged to determine upon the sinking of the *Frye*. Thus he did not exceed on this point the limits to which he was bound by Article 13.

However, Article 13 asserts itself here to the extent that it founds the obligation to compensate the American citizens affected, whereas according to the general rules of international law the belligerent party does not need to grant compensation for a vessel lawfully sunk. For if, by Article 13, the mere exercise of right of highways makes the belligerent liable for compensation, this must apply *a fortiori* to the exercise of the right of sinking.

The question whether the German commander acted legally was primarily a subject for the consideration of the German prize courts according to general principles of international law as laid down; also in Article 1 of The Hague Convention for the establishment of an international prize court and in Article 51 of the Declaration of London. The German Government consequently laid the case of *William P. Frye* before the competent prize court at Hamburg, as was stated in its note of the 7th ultimo. This court found by its judgment of the 10th instant that the cargo of the American vessel *William P. Frye* was contraband, that the vessel could not be carried into port, and that the sinking was therefore justified; at the same time the court expressly recognized the validity of the Prussian-American treaty stipulations severally mentioned for the relations between the German Empire and America, so that the sinking of the ship and cargo, so far as American property, makes the German Empire liable for indemnity. The prize court was unable to fix the indemnity itself, since it had no data before it, failing the receipt of the necessary detail from the parties interested.

It will now be necessary to settle these points in a different way. The German Government suggests as the simplest way that each of the two Governments designate an expert, and that the two experts jointly fix the amount of indemnity for the vessel and any American property which may have been sunk with her. The German Government will promptly pay the amount of indemnity thus ascertained; it expressly declares, however, reverting to what has been stated above, that this payment does not constitute satisfaction for the violation of American treaty rights, but a duty or policy of this Government founded on the existing treaty stipulations.

Should the American Government not agree to this manner of settling the matter, the German Government is prepared to submit the difference of opinion as being a question of the interpretation of the existing treaties between Germany and the United States to the tribunal at The Hague, pursuant to Article 38 of The Hague Convention for the pacific settlement of international disputes.

The undersigned begs to suggest that the Ambassador bring the above to the attention of his Government and avails himself, etc.,

VON JAGOW.

GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 10, 1915.

You are instructed to present the following note to the German Minister for Foreign Affairs:

Under instructions from my Government, I have the honor to inform Your Excellency in reply to your note of July 30 in regard to the claim for reparation for the sinking of the *William P. Frye*, that the Government of the United States learns with regret that the objections urged by it against the submission of this case to the prize court for decision have not commended themselves to the Imperial German Government, and it equally regrets that the reasons presented by the Imperial German Government for submitting this case to the prize court have failed to remove the objections of the Government of the United States to the adoption of that course. As this disagreement has been reached after the full presentation of the views of both Governments in our previous correspondence, a further exchange of views on the questions in dispute would doubtless be unprofitable, and the Government of the United States therefore welcomes Your Excellency's suggestion that some other way should be found for settling this case.

The two methods of settlement proposed as alternative suggestions in Your Excellency's note have been given careful consideration, and it is believed that if they can be combined so that they may both be adopted, they will furnish a satisfactory basis for the solution of the questions at issue.

The Government of the United States has already expressed its desire that the question of the amount of indemnity to be paid by the Imperial German Government under its admitted liability for the losses of the owners and captain on account of the destruction of the *Frye* should be settled by diplomatic negotiation, and it entirely concurs with the suggestion of the Imperial German Government that the simplest way would be to agree, as proposed in your note, "that each of the two Governments designate an expert and that the two experts jointly fix the amount of indemnity for the vessel and any American property which may have been sunk with her," to be paid by the Imperial German Government when ascertained as stated in your note. It is assumed that the arrangement will include some provision for calling in an umpire in case the experts fail to agree.

The Government of the United States notes that your suggestion is made with the express reservation that a payment under this arrangement would not constitute an admission that American treaty rights had been violated, but would be regarded by the Imperial German Government merely as fulfilling a duty or policy founded on existing treaty stipulations. A payment made on this under-

standing would be entirely acceptable to the Government of the United States, provided that the acceptance of such payment should likewise be understood to be without prejudice to the contention of the Government of the United States that the sinking of the *Frye* was without legal justification, and provided also that an arrangement can be agreed upon for the immediate submission to arbitration of the question of legal justification, in so far as it involves the interpretation of existing treaty stipulations.

There can be no difference of opinion between the two Governments as to the desirability of having this question of the true intent and meaning of their treaty stipulations determined without delay, and to that end the Government of the United States proposes that the alternative suggestion of the Imperial German Government also be adopted, so that this question of treaty interpretation can be submitted forthwith to arbitration pursuant to Article 38 of The Hague Convention for the pacific settlement of international disputes.

In this way both the question of indemnity and the question of treaty interpretation can promptly be settled, and it will be observed that the only change made in the plan proposed by the Imperial German Government is that instead of eliminating either one of its alternative suggestions, they are both given effect in order that both of the questions under discussion may be dealt with at the same time.

If this proposal proves acceptable to the Imperial German Government, it will be necessary also to determine whether, pending the arbitral award, the Imperial German Government shall govern its naval operations in accordance with its own interpretation, or in accordance with the interpretation maintained by the United States, as to the obligations imposed by their treaty stipulations, and the Government of the United States would be glad to have an expression of the views of the Imperial German Government on this point.

LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, September 20, 1915.

The following note received from the Foreign Office to-day:

FOREIGN OFFICE,
Berlin, September 19, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated 13th ultimo, on the subject of the claim for reparation for the sinking of the American merchantman *William P. Frye*.

With regard first to the ascertainment of the damages by experts

the German Government believes that it should dispense with the nomination of an umpire. In the cases of the ascertainment of damages hitherto arranged between the German Government and a neutral Government from similar causes the experts named by the two parties have always reached an agreement as to the amount of the damage without difficulty; should it not be possible, however, to reach an agreement on some point, it could probably be settled by diplomatic negotiation. Assuming that the American Government agrees to this, the German Government names as its expert Dr. Kepny, of Bremen, director of the North German Lloyds; it begs to await the designation of the American expert.

The German Government declares that it agrees to the proposal of the American Government to separate the question of indemnity from the question of the interpretation of the Prussian-American treaties of 1785, 1799, and 1828. It therefore again expressly states that in making payment it does not acknowledge the violation of the treaty as contended by the American side, but it will admit that the settlement of the question of indemnity does not prejudice the arrangement of the difference of opinion concerning the interpretation of the treaty rights, and that this dispute is left to be decided by The Hague tribunal of arbitration.

The negotiations relative to the signing of the *compromis* provided by Article 52 of The Hague Arbitration Convention would best be conducted between the Foreign Office and the American Embassy in Berlin in view of the difficulties in the way of instructing the Imperial Ambassador at Washington. In case the American Government agrees, the Foreign Office is prepared to submit to the Embassy a draft of such a *compromis*.

The American Government's inquiry whether the German Government will govern its naval operations in accordance with the German or American interpretation of the treaty stipulations in question pending the arbitral proceedings has been carefully considered by German Government. From the standpoint of law and equity it is not prevented in its opinion from proceeding against American ships carrying contraband according to its interpretation until the question is settled by arbitration. For the German Government does not need to depart from the application of generally recognized rules of the law of maritime war, as the Declaration of London, unless and in so far as an exception based on a treaty, is established beyond all doubt; in the case of the present difference of opinion between the German and the American Governments such an exception could not be taken to be established except on the ground of the arbitral award. Moreover, the disadvantages to Germany which would ensue from the American interpretation of the treaty stipulations would be so much greater as to be out of proportion to those which the German interpretation would entail for the United States. For whereas the American interpretation would materially impede Germany in her conduct of warfare, hardly any particular disadvantage to American citizens would result from the

German interpretation, since they receive full reparation for any property damage sustained.

Nevertheless the German Government, in order to furnish to the American Government evidence of its conciliatory attitude, has issued orders to the German naval forces not to destroy American merchantmen which have loaded conditional contraband, even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port. On the other hand, it must reserve to itself the right to destroy vessels carrying absolute contraband wherever such destruction is permissible according to the provisions of the Declaration of London.

The undersigned begs to suggest that the Ambassador bring the above to the knowledge of his Government, and avails himself of the opportunity to renew, etc.

VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 12, 1915.

You are instructed to present the following note to the German Minister of Foreign Affairs:

In reply to Your Excellency's note of September 19, on the subject of the claim for damages for the sinking of the American merchantman *William P. Frye*, I am instructed by the Government of the United States to say that it notes with satisfaction the willingness of the Imperial German Government to settle the questions at issue in this case by referring to a joint commission of experts the amount of the indemnity to be paid by the Imperial German Government under its admitted liability for the losses of the owners and captain on account of the destruction of the vessel, and by referring to arbitration the question of the interpretation of treaty rights. The Government of the United States further notes that in agreeing to this arrangement the Imperial German Government expressly states that in making payment it does not acknowledge the violation of the treaty as contended by the Government of the United States, and that the settlement of the question of indemnity does not prejudice the arrangement of the differences of opinion between the two governments concerning the interpretation of the treaty rights. The Government of the United States understands that this arrangement will also be without prejudice to its own contention in accordance with the statement of its position in its note of August 10 last to Your Excellency on this subject, and the Government of the United States agrees

to this arrangement on that understanding. Your Excellency states that the Imperial German Government believes that the nomination of an umpire should be dispensed with, because it has been the experience of the Imperial German Government that the experts named in such cases have always reached an agreement without difficulty, and that should they disagree on some point, it could probably be settled by diplomatic negotiation. The Government of the United States entirely concurs in the view that it is not necessary to nominate an umpire in advance. It is not to be assumed that the experts will be unable to agree, or that if they are, the point in dispute cannot be settled by diplomatic negotiation, but the Government of the United States believes that in agreeing to this arrangement it should be understood in advance that in case the amount of indemnity is not settled by the joint commission of experts or by diplomatic negotiation, the question will then be referred to an umpire if that is desired by the Government of the United States.

Assuming that this understanding is acceptable to the German Government, it will only remain for the Government of the United States to nominate its expert to act with the expert already nominated by the German Government on the joint commission. It seems desirable to the Government of the United States that this joint commission of experts should meet without delay as soon as the American member is named and that its meetings should be held in the United States, because, as pointed out in my note to you of April 30 last, any evidence which the German Government may wish to have produced is more acceptable and can more conveniently be examined there than elsewhere.

With reference to the agreement to submit to arbitration the question of treaty interpretation, the Government of the United States notes that in answer to its inquiry whether, pending the arbitral proceedings, the German Government will govern its naval operations in accordance with the German or American interpretation of the treaty stipulations in question, the reply of the German Government is that it "has issued orders to the German naval forces not to destroy American merchantmen which have loaded conditional contraband even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port," and that "on the other hand it must reserve to itself the right to destroy vessels carrying absolute contraband whenever such destruction is permissible according to the provisions of the Declaration of London."

Without admitting that the Declaration of London is in force, and on the understanding that the requirement in Article 50 of the Declaration that "before the vessel is destroyed all persons on board must be placed in safety" is not satisfied by merely giving them an opportunity to escape in lifeboats, the Government of the United States is willing, pending the arbitral award in this case, to accept the Declaration of London as the rule governing the conduct of the German Government in relation to the treatment of American vessels

carrying cargoes of absolute contraband. On this understanding the Government of the United States agrees to refer to arbitration this question of treaty interpretation.

The Government of the United States concurs in the desire of the Imperial German Government that the negotiations relative to the signing of the *compromis* referring this question of treaty interpretation to arbitration under the provisions of Article 52 of The Hague Arbitration Convention, should be conducted between the German Foreign Office and the American Embassy in Berlin, and the Government of the United States will be glad to receive the draft compromise, which you inform me the Foreign Office is prepared to submit to the American Ambassador in Berlin. Anticipating that it may be convenient for the Imperial German Government to know in advance of these negotiations the preference of the Government of the United States as to the form of arbitration to be arranged for in the compromise, my Government desires me to say that it would prefer, if agreeable to the Imperial Government, that the arbitration should be by summary procedure, based upon the provisions of Articles 86 to 90, inclusive, of The Hague Arbitration Convention, rather than the longer form of arbitration before the Permanent Court at The Hague.

Arrange for simultaneous publication of this note at earliest date which will give you time to notify the Department.

LANSING.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, December 2, 1915.

SIR: With reference to my telegram of even date ¹ and to previous correspondence on the subject of the claim for damages for the sinking of the American merchantman *William P. Frye*, I have the honor to transmit to you herewith a copy and translation of a note received from the Imperial Foreign Office, dated November 29, 1915, which replies to a note which I addressed to the Imperial Foreign Office on October 14, 1915, pursuant to the instructions contained in your telegram No. 2291, of October 12, 1915.

A copy and translation of the draft of a *compromis* submitted by the Imperial German Government is likewise transmitted herewith.

I have, etc.,

GERARD.

¹ Not printed.

[Inclosure—Translation.]

*The German Minister for Foreign Affairs to Ambassador Gerard.**Berlin, November 29, 1915.*

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of October 14, F. O. No. 5671, relative to indemnity for the sinking of the American merchant vessel *William P. Frye*, as well as to the settlement by arbitration of the difference of opinion which has arisen on this occasion, as follows:

With regard first to the ascertainment of indemnity for the vessel sunk, the German Government is in agreement with the American Government in principle that the amount of damages be fixed by two experts, one each to be nominated by the German and the American Governments. The German Government regrets that it cannot comply with the wish of the American Government to have the experts meet in Washington, since the expert nominated by it, Dr. Greve, of Bremen, director of the North German Lloyd, is unable to get away from here, and furthermore would be exposed to the danger of capture during a voyage to America in consequence of the conduct of maritime war by England contrary to international law. Should the American expert likewise be unable to get away, the two experts might perhaps get in touch with each other by correspondence.

The German Government likewise regrets that it cannot assent at this time to the nomination of an umpire as desired by the American Government, for apart from the fact that in all probability the experts will reach an agreement in the case of the *William P. Frye* with the same facility as was the case with similar negotiations with other neutral Governments, the assent of the German Government to the consultation of an umpire would depend materially upon whether the differences of opinion between the two experts pertained to questions of principle or merely to the appraisement of certain articles. The consultation of an umpire could only be considered at all in the case of appraisements of this nature.

Should the American Government insist on its demands for the meeting of the experts at Washington or the early choice of an umpire, the only alternative would be to arrange the fixing of damages by diplomatic negotiation. In such an event the German Government begs to await the transmission of a statement of particulars of the various claims for damages accompanied by the necessary proofs.

With regard to the arbitral treatment of the difference of opinion relative to the interpretation of certain stipulations of the Prussian-American commercial treaties, the German Government has drawn up the inclosed draft of a *compromis*, which would have to be worded in the German and English languages and drawn up with due consideration of the two alternating texts. It is true that the draft does not accommodate the suggestions of the American Government so

far as it is not in accordance with the rules of summary procedure provided by chapter 4 of The Hague Arbitration Convention, but with the rules of regular procedure. The Summary procedure is naturally intended only for differences of opinion of inferior importance, whereas the German Government attaches very particular importance to the interpretation of the Prussian-American treaties which have existed for over 100 years. Pursuant to the agreement made, any proposed amendments would have to be discussed between the Foreign Office and the American Embassy, and oral discussions would appear to be advisable.

Until the decision of the permanent court of arbitration, the German naval forces will sink only such American vessels as are loaded with absolute contraband, when the preconditions provided by the Declaration of London are present. In this the German Government quite shares the view of the American Government that all possible care must be taken for the security of the crew and passengers of a vessel to be sunk. Consequently, the persons found on board of a vessel may not be ordered into her lifeboats except when the general conditions, that is to say, the weather, the condition of the sea, and the neighborhood of the coasts afford absolute certainty that the boats will reach the nearest port. For the rest the German Government begs to point out that in cases where German naval forces have sunk neutral vessels for carrying contraband, no loss of life has yet occurred.

The undersigned begs to give expression to the hope that it will be possible for the two Governments to reach a complete understanding regarding the case of the *William P. Frye* on the above basis, and avails himself of this opportunity to renew to His Excellency, the Ambassador, the assurance of his highest consideration.

VON JAGOW.

[Translation.]

ARBITRATION COMPROMIS.

The Imperial German Government and the Government of the United States of America having reached an agreement to submit to a court of arbitration the difference of opinion which has arisen, occasioned by the sinking of the American merchant vessel *William P. Frye* by a German warship, in respect of the interpretation of certain stipulations of the Prussian-American treaties of amity and commerce, the undersigned, duly authorized for this purpose, have agreed to the following *compromis*:

ARTICLE I.

A court of arbitration composed in accordance with the following stipulations is charged with the decision of the legal question:

Whether according to the treaties existing between the parties, in particular Article XIII of the Prussian-American treaty of amity and commerce of July 11, 1799, the belligerent contracting party is prevented from sinking merchant vessels of the neutral contracting party for carrying contraband when such sinking is permissible according to general principles of international law.

ARTICLE II.

The court of arbitration shall be composed of five arbitrators to be chosen among the members of the permanent tribunal of arbitration at The Hague.

Each government will choose two arbitrators, of whom only one may be a national of such country, as soon as possible, at the latest within two weeks from the day this *compromis* is signed. The four arbitrators thus nominated shall choose an umpire within four weeks after they have been notified of their nomination; in case of an equal vote the president of the Swiss federal council shall be requested to select the umpire.

ARTICLE III.

On March 1, 1916, each party shall transmit to the bureau of the permanent tribunal of arbitration eighteen copies of its argument with authenticated copies of all documents and correspondence on which it intends to rely in the case. The bureau will arrange without delay for the transmission to the arbitrators and to the parties, each arbitrator to receive two copies, each party three copies. Two copies shall remain in the archives of the bureau.

On May 1, 1916, the parties shall deposit their countercases with the supporting evidence and their statements in conclusion.

ARTICLE IV.

Each party shall deposit with the international bureau at the latest on March 1, 1916, the sum of 3,000 gulden of The Netherlands toward the costs of the arbitral procedure.

ARTICLE V.

The court of arbitration shall meet at The Hague on June 15, 1916, and proceed immediately to examine the dispute.

ARTICLE VI.

The parties may make use of the German or the English language.

The members of the court may use the German or the English language as they may choose. The decisions of the court shall be written in both languages.

ARTICLE VII.

Each party shall be represented by a special agent whose duty shall be to act as an intermediary between the party and the court. These agents shall furnish the court any explanations which the court may demand of them; they may submit any legal arguments which they may consider advisable for the defense of their case.

ARTICLE VIII.

The stipulations of the convention of October 18, 1907, for the pacific settlement of international disputes, shall be applied to this arbitral procedure, in so far as nothing to the contrary is provided by the above *compromis*.

Done in duplicate at Berlin on the — day of —

PART XII.

CASE OF THE BRITISH STEAMSHIP *APPAM*, CAPTURED BY GERMAN NAVAL FORCES AND BROUGHT BY A PRIZE CREW INTO THE PORT OF NEWPORT NEWS, VA.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, February 2, 1916.

MR. SECRETARY OF STATE:

I have the honor to inform Your Excellency that the British steamer *Appam*, captured by the German naval forces, arrived at Newport News, Va., on the 1st of this month under the command of Lieut. Berg of the navy. The commanding officer intends, in accordance with Article XIX of the Prusso-American Treaty of September 10, 1785, to stay in an American port until further notice.

The *Appam* has not been converted into an auxiliary cruiser, is not armed, and has made no prize under Mr. Berg's command. She carries on board the crews of seven enemy vessels taken by H. M. S. *Moewe* who have been transferred to her by that ship.

There is on board a locked-up military party of the enemy, whose internment in the United States I request.

The crew of the *Appam* tried to offer resistance when the ship was captured, as the guns at hand were already in place and trained on the German warship. The members of the crew are therefore to be looked upon likewise as combatants, and I have the honor to ask of Your Excellency that they too be detained in the United States until the end of the war.

Accept, etc.,

J. BERNSTORFF.

Memorandum from the German Embassy.¹

Telegram from the German Government concerning its opinion on *Appam* case:

Appam is not an auxiliary cruiser but a prize. Therefore she must be dealt with according to Article 19 of Prusso-American Treaty of 1799. Article 21 of Hague Convention concerning neutrality at sea is not applicable, as this convention was not ratified by England and is therefore not binding in present war according to Article 28.

¹ Received at the Department of State February 8, 1916.

The above-mentioned Article 19 authorizes a prize ship to remain in American ports as long as she pleases. Neither the ship nor the prize crew can therefore be interned nor can there be question of turning the prize over to English.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, February 22, 1916.

MY DEAR MR. SECRETARY:

Lieut. Hans Berg, of the German Imperial Navy and commander of H. M. S. *Appam*, now lying at anchor near Newport News, Va., has informed me that a libel was filed against said vessel in the United States District Court for the Eastern District of Virginia, at Norfolk, on the 16th day of February, 1916, by the British and African Steam Navigation Co., Limited, and that, under the authority of said court, he has been cited by the marshal of the eastern district of Virginia to appear before said court on Friday, the 3d day of March, 1916, to answer the said libel.

As the *Appam* was captured at sea by a German man-of-war and brought to the Virginia port as a prize ship according to the treaty existing between our countries, you may well appreciate my surprise at the action which has been taken.

Article XIX of the treaty of 1799 between Prussia and the United States, renewed in part by Article XII of the treaty of 1828, provides that "the vessels and effects taken from" the enemies of the contracting parties may be carried freely wheresoever they please, and that such prizes shall not be "put under legal process when they come to and enter the ports of the other party. * * *"

In view of the terms of the treaty, I am at a loss to understand why such action has been taken by a court of your country. It may be argued that it has been because Article 21 of The Hague "Convention concerning the rights and duties of neutral powers in naval war" is applicable. This article provides:

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not the neutral power must order it to leave at once; should it fail to obey the neutral power must employ the means at its disposal to release it with its officers and crew and to intern the crew.

But as Great Britain has not ratified the convention the article is not binding, for the reason that Article 28 provides: "The provisions of the present convention do not apply except to the contracting powers, and then only if all the belligerents are parties to the convention."

Besides, the *Appam* flies the naval flag of and belongs to the German Government, and therefore the possession of the captors in a neutral port is the possession of their sovereign. The sovereign whose officers have captured the vessel as a prize of war remains in possession of that vessel and has full power over her. The neutral sovereign or its court can take no cognizance of the question of prize or no prize and cannot wrest from the possession of the captor a prize of war brought into its ports.

The position which I take is fully supported by an opinion of the Attorney General of the United States (7 Op., 122), the syllabus of which recites that a "foreign ship of war or any prize of hers in command of a public officer possesses in the ports of the United States the right of extritoriality and is not subject to the local jurisdiction."

I would therefore most respectfully protest against the action of the United States District Court, and request that you may ask the Attorney General to instruct the United States District Attorney for the Eastern District of Virginia to appear before the United States District Court and take such steps as may be necessary and proper to secure the prompt dismissal of the libel.

I am, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, March 2, 1916.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of the 2d of February, informing me that the British steamer *Appam*, captured by the German naval forces, had arrived at Norfolk under the command of Lieut. Berg, of the Imperial German Navy, who intends, in accordance, as he believes, with Article XIX of the Prussian-American treaty of 1799, to remain in American waters until further notice, and that the *Appam* has not been converted into an auxiliary cruiser, is not armed, and has taken no prizes under Lieut. Berg's command. In conclusion Your Excellency

requests internment in the United States during the remainder of the war of a military party belonging, Your Excellency states, to the enemy of Germany and also the internment of the crew of the *Appam*, inasmuch as they offered resistance to capture by His Majesty's forces.

I have the honor also to acknowledge the receipt of Your Excellency's note of February 22, calling my attention to a libel which has been filed against the *Appam* by the United States District Court on February 16 by the British and African Steam Navigation Co., Limited, and to the fact that Lieut. Berg has been cited to appear before the court on March 3 next to answer this libel. Your Excellency points out that in view of the terms of Article XIX of the treaty of 1799 and of the inoperation of The Hague Convention relating to neutral rights and duties in naval warfare, you are at a loss to understand why such action has been taken in this country. Your Excellency, moreover, asserts in effect that as the *Appam* flies the naval flag of and belongs to the German Government, and as the possession of the captors is the possession of their sovereign, "the neutral sovereign or its court can take no cognizance of the question of prize or no prize and cannot wrest from the possession of the captor a prize of war brought into its ports." Your Excellency, in conclusion, protests against the action of the court and requests that the Attorney General instruct the proper United States District Attorney to take such steps as may be necessary and proper to secure the prompt dismissal of the libel.

Article XIX of the treaty of 1799, to which Your Excellency refers, reads as follows:

The vessels of war, public and private, of both parties, shall carry (conduire) freely, wheresoever they please, the vessels and effects taken (pris) from their enemies, without being obliged to pay any duties, charges, or fees to officers of admiralty, of the customs, or any others; nor shall such prizes (prises) be arrested, searched, or put under legal process, when they come to and enter the ports of the other party, but may freely be carried (conduites) out again at any time by their captors (le vaisseau preneur) to the places expressed in their commissions, which the commanding officer of such vessel (le dit vaisseau) shall be obliged to show. But conformably to the treaties existing between the United States and Great Britain, no vessel (vaisseau) that shall have made a prize (prise) upon British subjects, shall have a right to shelter in the ports of the United States, but if (il est) forced therein by tempests, or any other danger or accident of the sea, they (il sera) shall be obliged to depart as soon as possible.

This translation is taken from the published treaties of the United States, and while not conforming strictly to the original French text (copy of which is inclosed), is sufficiently accurate for the purposes of this note. At the outset it may be pointed out that as the object of this provision was to mollify the existing practice of nations as to asylum for prizes brought into neutral ports by men-of-war, it is subject to a strict interpretation when its privileges are invoked in a given case in modification of the established rule. By a reasonable interpretation of Article XIX, however, it seems clear that it is applicable only to prizes which are brought into American ports by vessels of war. The *Appam*, however, as Your Excellency is aware, was not accompanied by a ship of war, but came into the port of Norfolk alone in charge of a prize master and crew. Moreover, the treaty article allows to capturing vessels the privileges of carrying out their prizes again "to the places expressed in their commissions." The commissions referred to are manifestly those of the captor vessels which accompany prizes into port and not those of the officers of the prizes arriving in port without convoy, and it is clear that the port of refuge was not to be made a port of ultimate destination or indefinite asylum. In the case of the *Appam* the commission of Lieut. Berg, a copy of which was given to the collector of customs at Norfolk, not only is a commission of a prize master, but directs him to bring the *Appam* to the nearest American port and "there to lay her up." In the opinion of the Government of the United States, therefore, the case of the *Appam* does not fall within the evident meaning of the treaty provision which contemplates temporary asylum for vessels of war accompanying prizes while en route to the places named in the commander's commission, but not the deposit of the spoils of war in an American port. In this interpretation of the treaty, which I believe is the only one warranted by the terms of the provision and by the British treaties referred to in Article XIX, and by other contemporaneous treaties, the Government of the United States considers itself free from any obligation to accord the *Appam* the privileges stipulated in Article XIX of the treaty of 1799.

Under this construction of the treaty the *Appam* can enjoy only those privileges usually granted by maritime nations, including Germany, to prizes of war, namely, to enter neutral ports only on case of stress of weather, want of fuel and provisions, or necessity of repairs, but to leave as soon as the cause of their entry has been removed.

As to the grounds upon which the application for the libel of the

Appam by the United States court was made, this Department has no direct information; but it is understood that the libellant contends that the *Appam* is not, assuming that it is a prize of the German Government, the property of that Government, but that, on the contrary, the title to the vessel is now properly in the British owners. Whether in these circumstances the United States court has properly or improperly assumed jurisdiction of the case and taken custody of the ship is a legal question which, according to American practice, must now be decided by the municipal courts of this country. With the purpose, however, of having Your Excellency's views as to this matter brought to the attention of the court, I have transmitted your note of February 22 to the Attorney General, with a request that he instruct the United States District Attorney to appear in the case as *amicus curiæ* and present to the court a copy of Your Excellency's note.

As to the internment of the military party which Your Excellency states was on board the *Appam*, as well as the officers and crew who offered resistance to capture by His Majesty's ships, I have the honor to inform you that the Government has, after due consideration, concluded that they should be released from detention on board the *Appam*, together with their personal effects.

Accept, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, March 14, 1916.

MY DEAR MR. SECRETARY:

Referring to previous correspondence in regard to H. M. S. *Appam*, am informed by our counsel that the State and Treasury Departments, mainly through the collector of customs, have been requesting the District Court of the United States for the Eastern District of Virginia to guard against two things: (1) An augmentation of the crew of the *Appam*; and (2) an attempt on her part to escape; and that such action would tend to disturb the peace of mind of the court.

While I cannot understand on what theory the court can be asked to have anything to do with questions of augmentation, I can readily appreciate its desire to prevent any possible escape so long as court proceedings are pending.

In view of the action of the Departments, the court appears unwilling to permit the ship to continue in the stream with only two keepers, and has requested counsel to consent to her removal to a wharf or some safer anchorage.

Lieut. Berg objects to her being taken to a wharf on account of increased difficulty of controlling his crew, the danger of annoyance from curiosity seekers, and the possibility of injury from hostile sources.

Because of the divergent wishes in this respect, I believe that the court will be fully satisfied, and at the same time Lieut. Berg can carry out his wishes, if I now assure you, as I do, that, while reserving all the rights of the German Government in this case, both before the court and in our diplomatic negotiations, and with a further reservation that such assurance and agreement shall be without prejudice to the defense, no change shall be made in the status quo with respect to augmentation of the crew or equipment that might be considered a breach of neutrality, and that no attempt to run the vessel away will be made so long as said ship remains under the custody of said court.

I would therefore most respectfully request that you may communicate my assurance to the Treasury Department, and that both Departments may communicate, through the proper officers, with the court and inform it that, in view of my assurance, they have no further requests to make along this line at the present time, and that for the present it would not appear to be necessary that the ship be removed to a wharf.

In my note of February 22 I requested you to ask the Attorney General to instruct the United States District Attorney for the Eastern District of Virginia to appear before the United States District Court and take such steps as may be necessary and proper to secure the dismissal of the libel. At a hearing held before said court at Richmond, Va., on March 7, said attorney appeared and presented a copy of my said note of February 22 to you, but did not ask for the dismissal of the libel. In view of this fact, and believing at this time that his presence in said court will not be further necessary for assisting in arriving at a solution of the case, I would most respectfully request that you may ask the Attorney General to instruct him not to appear further without securing express instructions so to do for such special reasons as your Government may have for so authorizing him.

I am, etc.,

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,

Washington, March 16, 1916.

In reply to your kind note of the 2d instant, I have the honor, in compliance with instructions, to submit to you the inclosed memorandum of the Imperial Government on the subject that has been received by me.

Should the Government of the United States fail to concur in the Imperial Government's interpretation, the Imperial Government would propose that the construction of the treaty in question be referred to The Hague Court of Arbitration in the same way as the Imperial Government proposed in the *William P. Frye* case in Secretary of State von Jagow's note of November 29 last, to Mr. Gerard, Ambassador of the United States at Berlin, provided that the status quo of the steamship *Appam* will remain unchanged throughout the arbitration proceedings and that the steamer will be allowed to remain with her prize crew in an American port during that time.

Accept, etc.,

J. BERNSTORFF.

[Inclosure.]

MEMORANDUM.

GERMAN EMBASSY.

The Imperial Government does not consider correct the interpretation of the Department of State of Article 19 of the treaty of 1799 as given in the note.

The Department of State criticised that the *Appam* was not brought into port by a warship, but arrived only with a prize crew on board. The treaty of 1799, referring to prizes accompanied by a warship, speaks, of course, of commercial warfare as it was usual in those times and which could be carried on by both parties only by privateers. This made it necessary that the prize was brought into port by the capturing vessel. The development of modern cruiser warfare, where, as a rule, the warship sends her prize into port by a military prize crew, cannot render the stipulations of Article 19 of said treaty null and void. The prize masters and prize crew, who represent the authority of the belligerent State, now take the place which the capturing vessel held formerly. That such stipulations are not in contradiction to the general rules of international law, and that, therefore, the treaty is not subject to the especially strict interpretation given to it by the Department of State, is proved by Article 23 of The Hague Convention regarding neutrality on sea, which was adopted by a great majority, although under reservation by the United States, Great Britain, and Japan.

The Department of State missed in the commission of Lieut. Berg

an order to take the prize into a German port, as it is unwilling to admit the permanent internment of the German prize in an American port as a consequence of the treaty. As proved by the last but obsolete sentences of Article 19 of the treaty of 1785 and Article 19 of the treaty of 1799, the object of Article 19 is to grant asylum or shelter to prizes of one contracting party in the ports of the other party. The asylum naturally continues only as long as the prize crew is on board and the danger of being captured by enemy naval forces exists. Both premises prevail in this case. Lieut. Berg, an officer of the Imperial Navy, was commissioned by the commander of a German warship to seek with his prize in an American port the asylum guaranteed by the treaty. The opinion of the Department of State that the commission must mention a German port of destination for the prize is unfounded, as Article 19 only provides the freedom of the prize to leave for the places which are named in the commission, but does not make the right of asylum depend on such port being mentioned. Such an indication seems superfluous if the prize is conducted by a prize crew mustered from the Imperial Navy, for such crew has to bring the prize into a German port as soon as possible. At present the claim for asylum naturally still exists, considering the uneven distribution of the domination of the seas between the belligerents.

As long as the right of asylum lasts the jurisdiction of American courts over the prize is formally excluded by Article 19; a German prize court alone is competent. The opinion of the Department of State that the American courts must decide about the claims of the British shipping company is incompatible with the treaty stipulations.

It is therefore respectfully requested that the prize crew should be permitted to remain in the American port, and also that the legal steps before an American court should be suspended.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 7, 1916.

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of the 16th ultimo, inclosing a memorandum of the Imperial German Government on the subject of the *Appam*, now at Norfolk. The memorandum of the Imperial Government contends, in brief, that Article 19 of the treaty of 1799 "speaks, of course, of commercial warfare as it was usual in those times and which would be carried on by both parties only by privateers," and that the development of modern cruiser warfare, in which a prize master and crew representing the

authority of a belligerent State now take the place which the conveying vessel formerly held, should govern the present interpretation of the treaty. The Government of the United States agrees with the German Government's statement that the treaty speaks of a mode of warfare in use at the time the treaty was negotiated. It is precisely for this reason that the Government of the United States does not believe that the treaty was intended to apply to circumstances of modern warfare which are essentially different from those in vogue at the close of the eighteenth century. The Government of the United States does not understand upon what ground the Imperial Government contends that a treaty granting concessions under specifically mentioned circumstances can be construed to apply to a situation involving other and different circumstances. To grant limited asylum in a neutral port to a prize accompanied by the capturing vessel is not the granting of a right of "laying up" in a neutral port a prize which arrives in the control of a prize master and crew.

Your Excellency's Government further contends that Article 19, besides being applicable to modern conditions, is not contrary to the general rules of international law, and therefore not subject to a restricting interpretation, and in support of this cites as declaratory of the general rules of international law Article 23 of Hague Convention XIII. As indicated by the Imperial Government, the United States did not in the case of this convention, and never has, assented to the sequestration of prizes in its ports. The ground of this position of the United States is that it does not, in the opinion of this Government, comport with the obligations of a neutral power to allow its ports to be used either as a place of indefinite refuge for belligerent prizes or as a place for their sequestration during the proceedings of prize courts. The contention of the Government of the United States in its note of March 2 in this case is consistent with this long-established and well-known policy of the American Government, in the light of which the treaty of 1799 was negotiated and has been enforced and applied. Provided the vessel enters an American port accompanied by a German naval vessel, Article 19 contemplates in the view of this Government merely temporary sojourn of the prize in an American port and not its sequestration there pending the decision of a prize court.

Holding the view that Article 19 is not applicable to the case of the *Appam*, this Government does not consider it necessary to discuss the contention of the Imperial Government that under Article 19 American courts are without jurisdiction to interfere with the prize,

and for the same reason it cannot accede to the request that the "legal steps before an American court should be suspended."

In Your Excellency's note transmitting the memorandum of your Government it is proposed that should this Government fail to concur in the contentions of the Imperial Government the construction of the treaty in question be referred to The Hague Court of Arbitration in the same way as the Imperial Government has proposed to do in the *William P. Frye* case provided that the *status quo* of the *Appam* remain unchanged throughout the arbitration proceedings and that the steamer be allowed to remain with her prize crew in an American port during that time. It is regretted that this proposal which appeals to the principle of arbitration, of which this Government is an earnest advocate, cannot be accepted in this particular case by the Government of the United States. Its acceptance would manifestly defeat the very object of the United States in its reservation to Article 23 of Convention XIII by allowing the prize to remain in an American port for an indefinite period while the arbitration proceedings were in progress, which might continue until after peace is restored. In this respect the case differs from that of the *William P. Frye*. Moreover, inasmuch as the *Appam* has been libeled in the United States District Court by the alleged owners, this Government, under the American system of government, in which the judicial and executive branches are entirely separate and independent, could not vouch for a continuance of the *status quo* of the prize during the progress of the arbitration proposed by the Imperial Government. The United States Court, having taken jurisdiction of the vessel, that jurisdiction can only be dissolved by judicial proceedings leading to a decision of the court discharging the case—a procedure which the executive cannot summarily terminate.

In these circumstances the Government of the United States can only accept the proposal of the German Government for the arbitration of the meaning of Article 19 of the treaty of 1799, upon the understanding that the *Appam* depart from the territorial jurisdiction of the United States, in the event that the libel is dismissed by the court and after she has had a reasonable time to take on board such supplies as may be necessary, in the judgment of this Government, for a voyage to the nearest port subject to the sovereignty of Germany; and failing this, that she be released and the prize master and crew be interned for the remainder of the war.

Accept, etc.,

ROBERT LANSING.

PART XIII.

NONCONTRABAND CHARACTER OF HYDROAEROPLANES.

The German Ambassador to the Secretary of State.

IMPERIAL GERMAN EMBASSY,
Washington, January 19, 1915.

MR. SECRETARY OF STATE:

It has come to my knowledge that a number of hydroaeroplanes have been ordered in the United States for belligerent States from the Curtis plant at Hammondsport, N. Y., and that a part of them has already been delivered.

An airship named *America* was delivered in October of last year to England and five more hydroaeroplanes of the same type have been delivered since.

England has also ordered twenty-four hydroaeroplanes of the I. N. model (70 horsepower) from Curtis.

Curtis is also building for England twelve hydroaeroplanes of the K model of 160 horsepower.

Russia has also recently ordered a number hydroaeroplanes of the K model from Curtis. How many is not yet known.

The motors for the aeroplanes are built partly by Curtis himself at Hammondsport, partly by the Herschel Spillman Motor factory at North Tonawanda, N. Y.

The wings are made at the Curtis plant, the minor parts by the Autocrat Manufacturing Co.

The Tonawanda Boat Co. furnishes the boat part.

There is no doubt that hydroaeroplanes must be regarded as war vessels whose delivery to belligerent States by neutrals should be stopped under Article 8 of the Thirteenth Convention of the Second Hague Conference of October 18, 1907. Hydroaeroplanes are not mentioned by name in the Convention simply because there was none in 1907 at the time of the Conference.

On the supposition that hydroaeroplanes are delivered to belligerents against the wishes of the Government of the United States, I have the honor to bring the foregoing to Your Excellency's kind knowledge.

Accept, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, January 29, 1915.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of the 19th instant, and in reply have to inform you that the statements contained in Your Excellency's note have received my careful consideration in view of the earnest purpose of this Government to perform every duty which is imposed upon it as a neutral by treaty stipulation and international law.

The essential statement in your note, which implies an obligation on the part of this Government to interfere in the sale and delivery of hydroaeroplanes to belligerent powers, is:

There is no doubt that hydroaeroplanes must be regarded as war vessels whose delivery to belligerent States by neutrals should be stopped under Article 8 of the Thirteenth Convention of the Second Hague Conference of October 18, 1907.

As to this assertion of the character of hydroaeroplanes I submit the following comments: The fact that a hydroaeroplane is fitted with apparatus to rise from and alight upon the sea does not in my opinion give it the character of a vessel any more than the wheels attached to an aeroplane fitting it to rise from and alight upon land give the latter the character of a land vehicle. Both the hydroaeroplane and the aeroplane are essentially air craft; as an aid in military operations they can only be used in the air; the fact that one starts its flight from the surface of the sea and the other from the land is a mere incident which in no way affects their aerial character.

In view of these facts I must dissent from Your Excellency's assertion that "there is no doubt that hydroaeroplanes must be regarded as war vessels," and consequently I do not regard the obligations imposed by treaty or by the accepted rules of international law applicable to air craft of any sort.

In this connection I further call to Your Excellency's attention that according to the latest advices received by this Department the German Imperial Government include "balloons and flying machines and their component parts" in the list of conditional contraband, and that in the Imperial Prize Ordinance, drafted September 30, 1909, and issued in the *Reichsgesetzblatt* on August 3, 1914, appear

as conditional contraband "airships and flying machines" (Article 23, section 8). It thus appears that the Imperial Government have placed and still retain air craft of all descriptions in the class of conditional contraband, for which no special treatment involving neutral duty is, so far as I am advised, provided by any treaty to which the United States is a signatory or adhering power.

As in the views of this Department the provisions of Convention XIII of the Second Hague Conference do not apply to hydroaeroplanes I do not consider it necessary to discuss the question as to whether those provisions are in force during the present war.

Accept, etc.,

W. J. BRYAN.

PART XIV.

RECALL OF CAPTAIN VON PAPEN, MILITARY ATTACHÉ, AND CAPTAIN BOY-ED, NAVAL ATTACHÉ, OF THE GERMAN EMBASSY AT WASHINGTON.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 4, 1915.

EXCELLENCY:

Confirming my conversation with you on December first, I have the honor to state that various facts and circumstances having come to the knowledge of the Government of the United States as to the connection of Captain Boy-Ed, Naval Attaché, and Captain von Papen, Military Attaché, of the Imperial German Embassy, with the illegal and questionable acts of certain persons within the United States, the President reached the conviction that the continued presence of these gentlemen as Attachés of the Embassy would no longer serve the purpose of their mission, and would be unacceptable to this Government.

The President, therefore, directed me to notify Your Excellency, as I did orally, that Captain Boy-Ed and Captain von Papen are no longer acceptable to the Government of the United States as Attachés

of His Imperial Majesty's Embassy at Washington, and to request that your Excellency's Government withdraw them immediately from their official connection with the Imperial German Embassy.

As I informed you at the time of our interview, the Government of the United States deeply regrets that this action has become necessary and believes that the Imperial Government will realize that this Government has, in view of all the circumstances, no alternative course consistent with the interests of the two Governments in their relations with each other.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 10, 1915.

MY DEAR MR. AMBASSADOR:

On December 1st I informed Your Excellency that Captain Boy-Ed, the Naval Attaché of your Embassy, and Captain von Papen, the Military Attaché, were no longer *personæ græte* to my Government and requested that the Imperial Government immediately recall the two attachés.

As ten days have passed without the request of this Government being complied with and without communication from you on the subject other than your personal letter of the 5th instant, which in no way affected the fact that the two attachés were unacceptable or presented a ground for delay, I feel compelled to direct your attention to the expectation of this Government that its request would be immediately granted.

I trust, my dear Mr. Ambassador, that you appreciate the situation and will urge upon your Government a prompt compliance with the request in order that this Government may not be compelled to take action without awaiting the recall of the attachés, an action which this Government does not desire to take but will be forced to take unless the Imperial Government meets the express wish of this Government without further delay. I need not impress upon Your Excellency the desirability of avoiding a circumstance which would increase the embarrassment of the present situation.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, December 10, 1915.

MR. SECRETARY OF STATE:

In reply to your note No. 1686 of the 4th of this month, I have the honor to inform Your Excellency that his Majesty the Emperor and King has been most graciously pleased to recall the Naval Attaché of the Imperial Embassy, Captain Boy-Ed, and the Military Attaché, Captain von Papen.

I am instructed to beg Your Excellency to obtain for the above-named gentlemen and their servants, Gustav Winkow and Otto Mahlow, a safe conduct for the return trip to Germany from the Powers at war with the German Empire, and also to insure the trip of the successors of those gentlemen to the United States in the event of their being appointed by His Majesty.

Accept, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 11, 1915.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of the 10th instant, notifying me that His Majesty the Emperor and King has been pleased to recall Captain Boy-Ed, the Naval Attaché, and Captain von Papen, the Military Attaché, of the Imperial German Embassy, pursuant to this Government's request of the 4th instant.

In accordance with Your Excellency's wishes, I have had the honor to request of the Powers at war with the German Empire safe conducts for these gentlemen and their servants, Gustav Winkow and Otto Mahlow. Upon the receipt of notice that His Majesty the Emperor and King has designated the successors of these gentlemen, and after the Government of the United States has decided upon their acceptability, it will be my pleasure to request the Powers at war with the German Empire to provide safe conducts for their passage to the United States.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 15, 1915.

MY DEAR MR. AMBASSADOR:

I am advised by the British and French Ambassadors that safe conducts will be furnished to Captains Boy-Ed and Von Papen for their return to Germany, it being understood that they will take the southern route to Holland. The Ambassadors request information as to the vessel and date of sailing of the two gentlemen, which I hope you will furnish at your earliest convenience. It is also understood that they will, of course, perform no unneutral act, such as carrying dispatches to the German Government.

I am, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 18, 1915.

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of the 10th instant, by which I am advised that His Majesty the Emperor has recalled Captain Boy-Ed and Captain von Papen, Naval Attaché and Military Attaché, respectively, of your Embassy, and requested to obtain for these officers a safe conduct for their return trip to Germany.

I did not fail to place myself at once in communication with the British and French Ambassadors on the subject, and I have now the honor to transmit to Your Excellency two authenticated sets of copies of notes from them, which I am assured will be regarded by officers of the Allied cruisers as safe conducts, provided Captain Boy-Ed and Captain von Papen follow the south route via Holland. I further enclose a passport for each of these gentlemen.

Accept, etc.,

ROBERT LANSING.

PART XV.

TRANSMISSION OF MAIL OF AMERICAN DIPLOMATIC
AND CONSULAR OFFICERS.

*The Secretary of State to Ambassador Gerard.*¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 25, 1914.

This Government is desirous of establishing uniform regulations for transmission of correspondence of American diplomatic and consular officers in belligerent territory. Inquire of German Government whether it would agree to the following regulations for American diplomatic and consular officers in Germany: First, all correspondence between American diplomatic and consular officers within Austrian territory to be inviolable if under seal of office; second, no correspondence of private individuals to be forwarded by diplomatic and consular officers under official cover or seal; third, official correspondence between American diplomatic officers residing in different countries is not to be opened or molested if under seal of office; fourth, official correspondence under seal of office between Department of State and American diplomatic and consular officers is not to be opened or molested; fifth, pouches under seal passing between American diplomatic missions by mail or courier not to be opened or molested; sixth, correspondence other than that described in foregoing sent by ordinary mail to be subject to usual censorship. Similar inquiries being made of other belligerent governments in respect to correspondence of American officers in their dominions.

BRYAN.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 23, 1915.

Department's 310, November 25, 1914, and circular December 18, 1914.²

In view of understanding between United States and belligerent countries regarding inviolability of Department's diplomatic and

¹ Same, *mutatis mutandis*, to the Embassies at London, Vienna, Paris, Tokyo, and Constantinople, and the Legation at Bucharest.

² Not printed.

consular correspondence, the following rules established by the Department are hereby called to your attention:

1. Communications from private individuals or institutions abroad to private individuals or institutions in United States should not be sent in Department pouches.

2. Personal letters from United States Diplomatic or Consular officers or employees of American missions or consulates abroad addressed to private individuals in United States may be sent in pouches, but should be censored by heads of missions with a view to prevent transmission of statements which would otherwise be censored by Governments, and should be left unsealed with postage fully prepaid.

3. Official correspondence of diplomatic and consular officers to individuals outside of Department should be marked "Official business," and should be left unsealed.

4. Communications from nations at war to agents in the United States should not be transmitted through pouches.

5. The Department reserves right to censor all mail received in the pouches.

BRYAN.

PART XVI.

CENSORSHIP OF TELEGRAMS.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, December 4, 1914.

Mr. Gerard says the German Foreign Office in referring to the necessity for uninterrupted telegraphic communications between Germany and the United States relative to cotton matters states that it seems from reliable sources that cablegrams sent over commercial lines and Western Union to Memphis and New Orleans, even from neutral countries referring to cotton transactions and giving or confirming orders or repetition of unanswered messages have not been acknowledged. Mr. Gerard says the German Government assumes therefore that the interested parties in Great Britain have censored these messages so as to render indefinite her agreement that cotton might go to European countries as noncontraband. Mr. Gerard adds that the German Government asks the United States Government to take the necessary steps to secure the uninterrupted transmission of cotton messages.

PART XVII.

DISPLAY BY NAVAL VESSELS OF DISTINGUISHING
MARKS ON THE HIGH SEAS.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, Dec. 1, 1915.

MR. SECRETARY OF STATE:

By direction of my Government I have the honor to ask of Your Excellency that orders be issued to the Commanding officers of American Warships in the Mediterranean to display the national flag so that it can be clearly seen by day and to keep the ship and flag sufficiently lighted by night, in order to avoid their being mistaken for warships of the States at war with the Central Powers.

The Imperial Government has the honor to offer this suggestion with a view to preventing error in submarine attacks.

Accept, etc.,

(For the Imperial Ambassador:)

PRINZ HATZFELDT.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
December 10, 1915.

EXCELLENCY:

Referring to Your Excellency's Note of December 1, 1915 (No. A. 7824), in which you ask, by direction of your Government, that orders be issued to the commanding officers of American warships in the Mediterranean to display the national flag so that it can be clearly seen by day and to keep the ship and flag sufficiently lighted by night, in order that the vessels of this Government may not be mistaken for warships of the States at war with the Central Powers, I have the honor to transmit herewith a copy of a communication dated December 10, 1915, from the Secretary of the Navy, indicating the reasons why the Navy Department must decline to issue the orders as suggested by the Imperial Government.

The substance of the Secretary of the Navy's letter has been

transmitted to the American Ambassador at Berlin by telegraph for communication to the Imperial Foreign Office.

Accept, etc.,

ROBERT LANSING.

[Inclosure.]

The Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT,

Washington, December 10, 1915.

SIR: I have the honor to acknowledge the receipt of your letter of December 8, 1915, transmitting a copy in translation of a note dated December 1, 1915, from the German Ambassador at this capital, asking that orders be issued to the commanding officers of American war vessels in the Mediterranean to display the national flag so that it can be clearly seen by day and to keep the ship and flag sufficiently illuminated at night, in order that the vessels of this Government may not be mistaken for the warships of the states at war with the Central Powers. It is further noted from the inclosure that the German Government offers this suggestion with a view to preventing error in submarine attacks.

The distinguishing marks and lights to be carried by men-of-war on the high seas are prescribed by international agreement as embodied in the statute law of the United States in regulations for preventing collisions at sea. These rules do not require the display of colors by day when not in sight of other vessels nor do they require the display of colors at night nor the illumination of the ship and colors at night.

Within territorial waters or blockaded areas this Department concedes the right of a foreign government to require the use of special distinguishing lights or signals, and in fact such local regulations are provided for by the international rules above mentioned.

On the high seas, however, no nation has a right to prescribe or suggest rules for the conduct of the vessels of other nations, and the responsibility for preventing attacks on innocent vessels under the circumstances suggested by the German Government must rest with the belligerent nation concerned and not with the neutral nation whose flag the ship may fly.

This Department considers that the entering into of an arrangement with one or more belligerents, not provided for by international agreement, would be a most dangerous and inexpedient procedure.

In view of the above, this Department must decline to issue the orders requested by the German Ambassador to the commanding officers of American war vessels in the Mediterranean and must continue to consider that the German Government is wholly and fully responsible for the prevention of unintentional attacks by its naval forces on the vessels of the United States.

Very sincerely, yours,

JOSEPHUS DANIELS.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, January 24, 1916.

SIR: With reference to the Department's telegram No. 2491,¹ of December 10, 1915, 5 p. m., regarding certain suggestions or instructions on the part of the German Government, applying to American ships of war in the Mediterranean, which were brought to your attention by the German Ambassador in Washington, I have the honor to inform you that I did not fail to bring the contents of the Department's telegram to the attention of the Imperial Secretary of State for Foreign Affairs on December 14, last, and that I am now in receipt of his reply, a copy in translation of which I inclose herewith. A résumé of this Note has to-day been cabled to the Department in the Embassy's telegram 3386.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

The German Minister for Foreign Affairs to Ambassador Gerard.

FOREIGN OFFICE,
Berlin, January 19, 1916.

The undersigned has the honor to reply as follows to the esteemed note of His Excellency, the American Ambassador, Mr. Gerard, of December 14, 1915, F. O. No. 6821:

If the Imperial Government proposed to the Government of the United States that the American warships in the Mediterranean be instructed to fly their national flags clearly visible during the day, and to provide sufficient illumination of vessel and flag at night, this merely represented a friendly *suggestion*, as is self-evident from the nature of the matter. It was by no means the intention of the Imperial Government to wish to issue *instructions* to the American Government in this regard. This suggestion had for its object in the first place to serve the interest of the American Government, but by no means to infringe upon its rights, as the American marine authorities erroneously appear to assume.

The Imperial Government is moreover not in the position to accept the point of view of the American marine authorities; that no state has a right to give friendly advice to another state. According to the conception of the Imperial Government, a belligerent power not

¹ Not printed.

only has the right, but even the duty to warn a neutral of dangers which may possibly menace him, in case he should get into unintended danger through operations of war about to take place.

In its reply of December 14, 1915, the American Government bases its point of view solely on formal instructions. In the opinion of the Imperial Government, the American Government does not sufficiently take into account the fact that these instructions were principally intended to safeguard shipping in normal times; that is, in times of peace. The particular requirements of war hardly render the appeal of a neutral power to such instructions permissible, if the one-sided disadvantage of one of the belligerents is thereby caused.

Even though no *explicit* regulations exist with regard to the German suggestion, the German Government would like to point out in this connection that it was the American Government itself, which appealed on several occasions to the general principles of the right of neutrality. According to these, the neutral state is in duty bound, not intentionally to place difficulties in the way of the military operations of one of the belligerents, unless its own justified interests are violated. The point of view taken by the American Government would logically lead to the result that even in times of war, American warships, in appealing to the right valid in times of peace of free transit on the high seas, could demand unhindered passage between two battling warships.

The foregoing considerations and urgent military interests, especially the exigencies of submarine warfare, concerning which the American Government itself admitted in the note of July 23, 1915, F. O. No. 4376, that it was prepared to take its special conditions into account, render it impossible for the Imperial Government, to its sincere regret, to accept the American point of view, which in case of mistaking a vessel, wishes to place the blame solely and entirely on the German naval forces.

The Imperial Government cherishes the hope that the American Government, upon subjecting the German suggestion to a new and well-wishing examination, will not refrain from listening to the above arguments.

While requesting him to bring the foregoing to the attention of the American Government, the undersigned avails himself of this opportunity to renew to His Excellency, the Ambassador, the assurance of his highest consideration.

VON JAGOW.

PART XVIII.

AMERICAN PRISONERS OF WAR TAKEN TO GERMANY ON
GERMAN PRIZE SHIP *YARROWDALE*.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Berlin, January 19, 1917.

Mr. Gerard reports that the evening papers say that the English steamer *Yarrowdale* has been brought to Swinemunde as a prize, having on board 469 prisoners taken from ships which had been captured by German auxiliary cruisers, among whom were 103 neutrals, and of this latter number those taken on board enemy armed ships, and who had accepted pay on such ships would be held as prisoners of war.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 22, 1917.

Mr. Lansing instructs Mr. Gerard to telegraph him at once if there were any American citizens among the prisoners brought by the *Yarrowdale* to Swinemunde, and if there were, to also give him their names and American addresses.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, January 24, 1917.

Mr. Gerard, referring to the Department's instructions numbered 3809, dated January 22, reports that he had sent a note to the German Foreign Office on the 20th of January, asking information as to whether there were any Americans among the prisoners brought to Swinemunde. No answer having been received, he was sending another note that day.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, January 26, 1917.

Mr. Gerard reports that a correspondent there had ascertained on the day before from an Under Secretary of State that there were some Americans among the 107 neutrals brought by the *Yarrowdale* to Swinemunde, and also that there was an acrimonious divergence of opinion as to what position the Government should assume regarding them. He also says he had sent notes to the German Foreign Office asking information as to whether there were any Americans among those prisoners on January 20th, 24th, 25th, and the 26th, but had received no answer.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, January 30, 1917.

Following note received from Foreign Office to-day. Please note that although it refers to my note of twenty-fifth, my first note regarding this subject was written on [a] subject of Turkey.

“Foreign Office, Berlin, January 28, 1917. The undersigned has the honor to inform his excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the esteemed note of the twenty-sixth instant, Foreign Office number 16102, that in pursuance of information furnished by the Imperial Navy, there are a number of American citizens among the crews of the sunk armed English merchantmen *Voltaire*, *Mount Temple*, and *Georgic* brought to Swinemunde with the prize *Yarrowdale* and thereupon taken away as prisoners of war. In order to ascertain the names of the Americans it is necessary to examine the lists of the crews; these lists have been requested; unfortunately they are not at present in Berlin but elsewhere; in the hands of certain military authorities.

“Undersigned will send further advice at an early date and the undersigned avails himself of this occasion et cetera:

“STUMM.”
GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, February 1, 1917.

Foreign Office has sent me following names of persons from crews of destroyed armed English merchant ships *Georgic*, *Mount Temple*, and *Voltaire*, who claim to be American citizens; all except the two doctors Snyder and Davis and two veterinaries Zabriskie and McKim are in prison camp at Duermen in Westfalen; the doctors and veterinaries will probably be taken to-morrow to the temporary camp at Karlsruhe. Names and places of residence follow: Steamer *Georgic*, Harry Middleton, Toledo; William Hutchins, New York; John Brady, John McCarthy, Harry Hynes, Peter Gallagher, all of New York; Walter Moffat, Brooklyn; Dr. John Davis, Columbus, Mississippi; Evans Orville McKim, William Brown, both of New York; Walter Aberle, Edward Brennan, both of Brooklyn; Albert Depew, New York; Arthur Thimme, William Kenedy, both of Brooklyn; Frank Daly, Indianapolis; Edward Roche, New York; Heins Rein, Idaho; Joseph Sigismonde, New York; John Nyberg, Jersey City; Harry La Vere, New York; Francis Sulley West, New York; Albert Feroli, John Carlo, Edward Mallon, John Marco, Dun Goodwin, Arthur Field, John Smith, all of New York; Arthur Gilmore, Providence; Frank Taylor, John Hartly, William Adams, all of Brooklyn; Louis Hitchmough, Jersey; Joseph Blacke, Brooklyn; Charles Ogran, James Sims, Martin Connolly, all of New York; John McCarthy, New Bedford; Will McKellar, Watertown; John Hutchinson, Newton; Evans Williams, New York; Keemes Madigans, Brooklyn; Edward Clark, of Dallas; Frank McHughes, Pat Shea, Thomas McFarren, all of New York; James Parker, New Jersey; John Allen, New York; Vinciah Edge, New Bedford; Thomas Martin, Brooklyn; Charles Scott, New York; John O. Bourle, New Jersey; Richard Donnolip, New York; John Ryan, New York; George Fields, Philadelphia.

Steamer *Mount Temple*: Veterinary Zabriskie, Englewood, New Jersey; McGreal, Boston; John Glemann, Cambridge, Massachusetts; Harry Gilmore, Minnesota; Raymond Gilbert, Farmington, New Hampshire; Harald Hinkley, Kennebeck.

Steamer *Voltaire*: Doctor Henry Snyder, Norfolk, Virginia; David Harrington.

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, February 4, 1917.

Mr. Gerard reports that he had just been informed by Count Montgelas of the Foreign Office that the American prisoners taken on the

Yarrowdale would be at once released for the reason that they could not have known at the date of sailing that it was the intention of Germany to regard and treat armed merchantmen as warships.

The Minister of Switzerland, in charge of German interests in America, to the Secretary of State.

LEGATION OF SWITZERLAND,
Washington, February 12, 1917.

SIR: Upon cable instructions from my Government, dated February 11th, I have the honor to transmit to the American Government the following communication from the German Government:

“The immediate release of about 70 Americans, brought in as prisoners of war by the steamer *Yarrowdale* is conditional to the German vessels in American waters not being seized and their crews not being interned.”

Accept, etc.,

P. RITTER.

Ambassador Willard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Madrid, February 17, 1917.

Mr. Willard reports that the Spanish Minister for Foreign Affairs had told him that the German Minister for Foreign Affairs had informed the Spanish Ambassador at Berlin that the American prisoners brought in by the *Yarrowdale* and such other nonbelligerents would be set at liberty within a very short time.

The Secretary of State to Ambassador Willard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 20, 1917.

Ambassador Willard is directed to transmit the following to the Spanish Ambassador at Berlin through the Spanish Foreign Office:

“If *Yarrowdale* prisoners have not been released, please make a formal demand in the name of the United States for their immediate

release. If they are not promptly released and allowed to cross the frontier without further delay, please state to the Foreign Minister that this policy of the Imperial Government, if continued, apparently without the slightest justification, will oblige the Government of the United States to consider what measures it may be necessary to take in order to obtain satisfaction for the continued detention of these innocent American citizens."

LANSING.

Ambassador Willard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Madrid, February 25, 1917.

Mr. Willard refers to the Department's instructions, number 269, dated February 20, and reports that he has just been informed by the German Foreign Office that the *Yarrowdale* prisoners had been released on the 16th.

The Secretary of State to Ambassador Willard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 27, 1917.

Mr. Lansing, noting the Embassy's dispatch numbered 370, dated February 25th, gives instructions that the Foreign Office be requested to instruct the Spanish Ambassador at Berlin to at once telegraph the Department a full report as regards the *Yarrowdale* prisoners: why they were held, why not sooner liberated, their present whereabouts, and, if then in Germany, whether or not arrangements for their departure were being facilitated. Mr. Lansing impresses upon the Embassy that the above mentioned matters, as well as that of the departure from Germany of other Americans, were of serious concern to the United States Government.

Ambassador Willard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Madrid, March 2, 1917.

Mr. Willard, referring to the Department's instructions, numbered 290 and 291, dated February 27, reports having received a telegram from the Spanish Ambassador at Berlin on March 1st which confirmed

the report that the *Yarrowdale* prisoners had been released on February 16th and were making preparations to leave Germany when an English member of the crew contracted typhus. Thereupon the German Government was compelled to quarantine them at Brandenburg and take additional sanitary precautions. The disease having attacked no other members of the party they could probably leave by Switzerland on March 7th.

The Spanish Ambassador also said that the German Minister for Foreign Affairs regretted the delay and had requested that a Spanish physician be sent to verify the truth of the above facts. The Spanish Ambassador had accordingly ordered doctors to go to Brandenburg and to make prompt report thereon, which report he would transmit at once.

*The Minister of Switzerland in charge of German Interests in America
to the Secretary of State.*

LEGATION OF SWITZERLAND,
Washington, March 2, 1917.

SIR: Referring to my note of February 12, 1917, I am instructed and have the honor to communicate to your Excellency the following cable, dated March 1, 1917, from the German Government:

"The transfer already arranged of American sailors from *Yarrowdale* to the frontier has not as yet been possible because one of the British sailors in camp of Brandenburg, likewise from *Yarrowdale*, and interned with American sailors, was found to be suffering from *typhus exanthematicus*. Their transfer to Swiss frontier will probably take place March seventh when quarantine comes to an end. Spanish Embassy, Berlin, has been invited to have doctor of confidence visit the Americans. This afternoon, two veterinaries and two doctors from the *Yarrowdale*, who were in officer prison camp at Karlsruhe, arrived at Warnemunde for departure to Denmark."

Accept, etc.,

P. RITTER.

Minister Egan to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Copenhagen, March 3, 1917.

Mr. Egan reports that there arrived in Copenhagen on the first instant four American medical officers who were released from the prison camp at Karlsruhe, Germany, on February 27, brought to the frontier of Denmark and placed in charge of Danish authorities who

sent them to Copenhagen. Dr. H. D. Snyder, of Norfolk, Va., signed on Lamport and Holt liner *Voltaire* at Liverpool November fifteenth. The *Voltaire* was captured on December 2 by a German ship supposed to be the *Puma*, a converted fruit vessel. Other ships captured between the second and twelfth of December are as follows: *Duchess of Cornwall*, sailing vessel from St. John's, Newfoundland; *Genitor*, White Star Line from Philadelphia; *Hallyrg*, Norwegian steamer from New York; *King George* from New York; *Cambrian Range* from Philadelphia; *Mount Temple* from Montreal; *Saint Theodore* and the *Yarrowdale*. Four hundred and eighty-three sailors and officers were captured, all of whom were treated as prisoners and were transferred from the *Puma* to the *Yarrowdale* on the 13th. The *Yarrowdale* arrived at Swinemunde on the 31st. The sailors were placed in a brick shed, and the officers were taken to other barracks. Eight captains, one English officer, and Dr. Snyder were taken to the Neustrelitz prison camp. With the exception of Dr. Davis, the English surgeon, and Dr. Snyder, who were sent to hospital, the men were put in frame sheds. On January 25 the men were sent to Dulmen and on February 5 the officers were sent to Karlsruhe. On February 10 the first interview was had with Major Schoenbeck, the commander of the camp, it being the first hearing of any kind that they were able to obtain. They were released on February 27 and sent to Warnemunde, where they were delivered to the Danish police. They have had no word from the men since they left on January 25. On January 27 all other neutrals were released, including four Americans, two negro, one unknown white, and one white named Green. All are without money and clothing and all desire an immediate return to the United States.

Ambassador Willard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Madrid, March 7, 1917.

Mr. Willard states that it is reported by the Spanish Ambassador at Berlin that the *Yarrowdale* prisoners at Brandenburg were visited by the Spanish Embassy doctor on the first instant. The doctor approved of the quarantine and stated that conditions were as reported by German officials. The case of typhus occurred on the twentieth of February and unless new cases occur the quarantine will end on the seventh of March. The doctor further stated that the men had no complaint to make other than of diet and were glad to learn of their approaching release. Only five of the fifty-seven Americans were in the hospital, these suffering from slight colds and five men of other nationalities are under medical observation.

Ambassador Willard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Madrid, March 12, 1917.

Mr. Willard reports that it is stated by the Spanish Ambassador at Berlin that fifty-nine Americans of the *Yarrowdale* detained at Brandenburg left Germany via Sweden on March eighth and one other from another camp was also released.

WILLARD.

Minister Stovall to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Berne, March 12, 1917.

American prisoners from *Yarrowdale*, to the number of 59, arrived in Zurich yesterday.

STOVALL.

Minister Stovall to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Berne, March 16, 1917.

Mr. Stovall informs the Department of the receipt of a report from the Consul General at Zurich that no complaint was made by the men of the *Yarrowdale* of their treatment while on the high seas or in the camp near Swinemunde which was their first camp. They were first transferred to Brandenburg about January 10, where, according to their statement, their treatment by the officers was very harsh. It was impossible for them to keep warm. They were kept standing in the cold and snow. Their food consisted, after one cup of coffee in the morning, mostly of boiled, frosted cabbage; once a week beans; and once a week mush. The only sickness they mentioned from which they suffered was one case of lumbago. They knew nothing of any cases of contagious diseases.

Minister Stovall to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Berne, March 18, 1917.

Mr. Stovall reports having personally conversed with the crews on board the *Yarrowdale* as to the treatment received by them and submits the following supplementary report:

The most cruel and heartless treatment was accorded the shipwrecked American sailors from the moment of their arrival in Ger-

many, January 3rd. The weather was very cold and they were given no suitable clothes. There was an entire insufficiency of the usual prison food. The statement was made by M. J. Connolly belonging to the crew of the steamship *Georgic* that a German officer had, without provocation, severely kicked him in the abdomen. This assault is still causing Connolly severe suffering. The arm of Albert Depew of Yonkers, New York, was in a bandage. This was due to a wound caused by shrapnel shot by the Germans at an open boat in which, after the sinking of the *Georgic*, he and his comrades had taken refuge. Statements were made by all of the men that so inhuman has been their treatment that, in case during their voyage home a submarine was sighted, they would prefer immediate drowning rather than any further experience with the German prison camps.

This inhuman treatment was inflicted upon these seamen a month before relations were broken between the United States and Germany and while the most cordial friendship for America was professed by Germany.

Ambassador Willard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Madrid, March 18, 1917.

Harrington last American citizen of Yarrowdale prisoners left for Denmark by Warnemunde, 13th instant.

WILLARD.

PART XIX.

STATUS OF ALLIED CONSULAR OFFICES IN BELLIGERENT TERRITORY OCCUPIED BY ENEMY TROOPS.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, December 4, 1914.

SIR: I have the honor to transmit to you herewith a copy in translation of a Note Verbale, received from the Imperial German Foreign Office, stating the position of the German Government, respecting the recognition of Consular Officers in territory under occupation by the German Army.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

FOREIGN OFFICE,
Berlin, November 30, 1914.

NOTE VERBALE.

Now that the German Army has occupied various portions of enemy countries, the German Government considers the Exequaturs of the Consuls, formerly permitted to act in such districts, to have expired.

The Imperial Government would, however, be disposed to consider favorably any wishes of allied and neutral countries, respecting the establishment of consular offices in the districts in question, excepting, of course, those districts where military operations are still in course.

In Belgium consular activities in the provinces of East and West Flanders would accordingly not be permitted at present. With regard to the other parts of Belgium, consular officers would be permitted to act for the present in Brussels, Antwerp, and Liège, but not at other points.

The Imperial Government would not consider the issuance of formal Exequatur advisable; to consular officers, whose names are communicated to the Foreign Office, would simply be granted temporary recognition to enable them to act in their official capacity, under reserve of the usual investigations respecting their records.

In view of the peculiar circumstances contingent on military occupation, the Imperial Government would be grateful if only such persons should be nominated as are assuredly friendly to Germany or have at least neutral convictions.

In bringing the above to the attention of the Embassy, the Foreign Office has the honor respectfully to request that the American Government may be notified in the above sense. As the Embassy is aware, the German Government has already recognized Consul-General Diederich at Antwerp, assuming this to be the wish of the American Government.

The Belgian Minister to the Secretary of State.

[Translation.]

BELGIAN LEGATION,
Washington, December 28, 1914.

MR. SECRETARY OF STATE:

I have just received the following cablegram from my Government:

The German Government has just notified the neutral powers of its intention to cancel the exequaturs granted by the Belgian Government to foreign consuls and to create but those consular posts at

Brussels, Liège, and Antwerp, temporary recognition only being granted to those officers.

The Belgian Government has entered protest at Berlin, under Article 42 of the 4th Convention of The Hague, military occupation only confers upon the occupant State over the territory of the occupied State *de facto* possession, the right to cancel all exequaturs cannot be derived from that title.

I have been officially instructed to notify Your Excellency of the Belgian Government's protest.

Be pleased to accept, etc.,

E. HAVENITH.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, January 11, 1915.

SIR: With reference to my dispatch No. 308 of December 4, 1914, I have the honor to transmit to you herewith a copy and translation of a Note Verbale, received from the Imperial German Foreign Office, dated January 3, 1915, and of a Note Verbale¹ addressed to the Imperial Foreign Office by the Royal Spanish Embassy at Berlin, relative to the protest of the Belgian Government against the position taken by the German Government, respecting the recognition of consular officers in territory under occupation by the German Army.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

FOREIGN OFFICE,
Berlin, January 3, 1915.

NOTE VERBALE.

In supplement to its Note Verbale of November 30, 1914, No. Ic 16180, the Foreign Office has the honor to inclose herewith to the Embassy of the United States of America a copy of a Note Verbale, received from the Royal Spanish Embassy, which transmitted to the Imperial German Government a protest of the Belgian Government relative to the position of neutral consuls in Belgium:

The Imperial Government is obliged to consider that the protest of the Belgian Government is not well founded.

Article 42 of the IVth Hague Convention in particular is not capable of supporting the view of the Belgian Government. This article makes it obligatory on the occupant State only to maintain as far as

¹ Not printed; substance stated in preceding document.

possible public order in the occupied districts, but not to permit the officials of the enemy State to remain in office. Such officials cannot be tolerated, except as far as military considerations admit, and if the officials themselves are ready to comply with the regulations of the occupant State. If these principles are applied by analogy to the Consuls of neutral States, it results that they also cannot perform their public duties, except by consent of the occupant Power and to the extent allowed by it, inasmuch as the exequatur of the enemy is not binding on the occupant Power.

The Note Verbale of the Imperial Foreign Office of November 30, last, does not affect the rights of the Belgian Government in any way, but deals exclusively with the interests of the Imperial Government, which conceives it to be its right and its unalterable duty to regulate for the period of occupation the consular protection in the territory occupied by its Army. Moreover, this re-regulation is primarily necessary in the interests of neutral nations themselves. More than 300 consular representatives of the allied and neutral States were hitherto officially recognized in Belgium. By far the majority of them were honorary consuls of Belgian nationality, and of them a large number have left Belgium. It is beyond doubt that the Imperial Government, in the very interest of neutral nationals, cannot hesitate to see to it that their consular protection is established securely and effectively, to which end it has, as a first step, requested the allied and neutral Governments, under date of November 30, 1914, to express their wishes.

The Foreign Office begs to request the good offices of the Embassy of the United States of America to the end that the above may be brought to the attention of its Government.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 21, 1915.

Note verbale inclosed in your dispatch 308. You are instructed to present the following to the German Government:

The Government of the United States has received and given consideration to the Note Verbale of the Imperial Government dated November 30, 1914, in which it is stated that the German Army now having occupied various portions of enemy countries, the German Government considers the Exequaturs of the Consuls, formerly permitted to act in such districts, to have expired. That the Imperial Government would, however, be disposed to consider favorably any wishes of allied and neutral countries respecting the establishment of consular offices in the districts in question, excepting, of course, those districts where military operations are still in course; and that the Imperial Government would not consider the issuance of formal Exequaturs advisable; to consular officers, whose names are communi-

cated to the Foreign Office, would simply be granted temporary recognition to enable them to act in their official capacity, under reserve of the usual investigations respecting their records.

The Government of the United States, in view of the fact that consular officers are commercial and not political representatives of a government and that permission for them to act within defined districts is dependent upon the authority which is in actual control of such districts irrespective of the question of legal right, and further, in view of the fact that the consular districts, to which reference is made in the Note Verbale of the Imperial Government, are within the territory now under German military occupation, is not inclined at this time to question the right of the Imperial Government to suspend the exequaturs of the consular officers of the United States within the districts which are occupied by the military forces of the German Empire and subject to its military jurisdiction.

The Government of the United States notes that all the consular districts in Belgian territory occupied by the German military forces, excepting Brussels, Antwerp, and Liège, are considered by the Imperial Government to be within the zone of military operations and that within such districts, except those named, the Imperial Government will not permit consular officers to exercise their functions.

The Government of the United States in the circumstances assumes that the Imperial Government will raise no objection to the consular officers of the United States now stationed at Brussels, Antwerp, Liège, and other places similarly situated acting in their official capacity, and that, if the *de facto* authorities at those cities object on personal grounds to any of such officers continuing, the Government of the United States will be forthwith notified of such objection.

BRYAN.

The Secretary of State to the Belgian Minister.

DEPARTMENT OF STATE,
Washington, January 25, 1915.

SIR: I have received your note, No. 3465, of December 28, 1914, in which you refer to the notification of the neutral powers by the German Government of its intention to cancel the exequaturs granted by your Government to foreign consuls and to create but three consular posts, namely, Brussels, Liège, and Antwerp, only granting temporary recognition to the consular officers stationed at those places.

You state that your Government has entered a protest at Berlin under Article 42 of the Fourth Convention of The Hague, to the effect that military occupation only confers upon the occupant *de facto* possession, which does not carry with it the right to cancel exequaturs.

Accept, etc.,

W. J. BRYAN.

The Belgian Minister to the Secretary of State.

[Translation—Extracts.]

BELGIAN LEGATION,
Washington, February 13, 1915.

MR. SECRETARY OF STATE:

I am instructed by the King's Government and have the honor to forward herewith to your Excellency a copy of the German Government's reply to the Belgian Government's protest, together with a copy of another note from the Belgian Government which the Spanish Government kindly undertook to deliver at Berlin.

I embrace this opportunity, etc.,

E. HAVENITH.

[Inclosure 1—Translation.]

The Imperial German Foreign Office to the Royal Embassy of Spain.

SPANISH EMBASSY,
Berlin, January 3, 1915.

The Department of Foreign Affairs has the honor to answer the note verbale of the Royal Embassy of Spain of December 31 last as follows:

The Imperial Government is of opinion that the Belgian Government's protest in the matter of the exequaturs of consuls in Belgium is groundless.

Article 42 of the IVth Convention of The Hague, in particular does not support the views of the Belgian Government. Under that article the occupant Power is bound to maintain, as far as possible, public order in the occupied area; the article in no wise binds it to continue all officials in office. This, on the contrary, could only be done within the measure allowed by the military considerations of occupation and not on the mere condition that those officials will be ready to yield to the authority of the occupant Government. Those principles apply to neutral consuls, and those officers can only discharge their public duties if and as far as the occupant Power agrees, as the enemy's exequatur is not binding on that Power.

The circular note of the Imperial Government concerning consuls does not in any way touch upon the rights of the Belgian Government; it merely deals with the rights of Imperial Government which claims it as its inborn right and undisputable duty to regulate the consular protection of neutral subjects for the term of occupation. This new rule furthermore and foremost is required for the good of the neutral subjects themselves. Inasmuch as 300 representatives at least of the allied or neutral states were recognized in Belgium, most of them of Belgian nationality, many of them having left the country, it is plain that in the interest of the neutral subjects themselves it would not be well for the Imperial Government to delay giving its attention to assured and effective regulations for their protection.

[Inclosure 2—Translation.]

The Belgian Foreign Office to the Royal Embassy of Spain.

NOTE VERBALE.

Germany claimed, in her communication of December 5, that the occupant of an invaded country had the right to regard as "annulled" all exequaturs previously issued to Consuls in office by the lawful power of that country.

The claim is untenable.

By reason of the character of the occupant's power which flows from mere possession and is in no wise final, Article 43 of the IVth Convention of The Hague sanctions, in principle, the continuance of civil and administrative laws and, consequently, of existing conditions.

It is idle for Germany to invoke, in her note of January 3, military and administrative considerations. These both may justify the withdrawal of the exequatur of a consul who should indulge in hostile acts or behave in a manner inconsistent with the duties of his office. But they cannot warrant either a general right of cancellation as claimed by Germany nor her assuming to upset the whole Consular organization to reduce the number of consuls to three for each nation and to bar from consulates, on the sole ground that they are Belgians, men who have committed no act antagonistic to military interests and honestly acknowledged the occupant's rights as defined by The Hague Convention.

The German proposition, if accepted, would carry the consequence of throwing into a state of disastrous uncertainty the Consulates established in parts that are occupied one day and retaken the next.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, March 12, 1915.

SIR: With reference to the Department's telegram No. 1044, dated January 21, 4 p. m., the substance of which was duly communicated to the Imperial Foreign Office, I have the honor to transmit to you herewith a copy in translation of the reply of the Foreign Office, dated March 9, 1915, on the subject of the consular representation of the United States in Belgium.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

FOREIGN OFFICE,
Berlin, March 9, 1915.

NOTE VERBALE.

The Foreign Office has the honor to convey its best thanks to the Embassy of the United States of America for the statement communicated with the esteemed Note Verbale of January 25, 1915, F. O. No. 2002.

The Foreign Office gladly takes the opportunity expressly to confirm that no objections are raised to the American consular representatives now stationed at Antwerp and Liège. These two officials have succeeded under the trying conditions of the present time in establishing the most agreeable official relations with the authorities of occupation.

Mr. Watts, the Consul General at Brussels, is on leave of absence, and it would appear that he is not to return to his post. Should the Government of the United States propose to fill this post again, this intention would agree with the wishes of the Imperial Government and the military authorities in Belgium.

Although Ghent is still within the zone of military operations, and official consular activity there would therefore appear not to be desirable as yet, the Foreign Office would like to state at this time that no objections on personal grounds will be raised against Mr. Jansen, the Consul of the United States at that place.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, June 14, 1916.

Mr. Gerard reports that the German Foreign Office states that the Government has in contemplation extending the same recognition to Consul at Warsaw as has been accorded to consuls at Antwerp, Liège, and Brussels. Mr. Gerard states that Foreign Office desires to be informed whether recognition in this form will be regarded as acceptable by the United States Government.

The Acting Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 12, 1916.

Mr. Gerard is directed to inform the German Foreign Office that the German Government's proposal to grant permission to the Ameri-

can Consul at Warsaw, in accordance with the treatment of consuls in Belgium, to exercise his consular functions in the portion of his consular district under the military occupation of Germany, is acceptable to the United States Government.

PART XX.

BELGIAN RELIEF.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 7, 1914.

Department has received following from London, which you may communicate to Imperial Foreign Office:

Belgian committee has been formed at Brussels under the patronage of the American and Spanish ministers for the purpose of importing foodstuffs for the poor of Belgium. The German authorities in occupation have consented and the Belgian Minister here informs me that under instructions from his Government he has obtained permission of the British authorities for the export of supplies on condition that they be dispatched by this Embassy and consigned to our Legation at Brussels. I believe it would be well to obtain a definite assurance from the German Government of their approval of this humanitarian project the execution of which is in charge of an American citizen, Mr. Shaler, who is now in London purchasing supplies.

Please take up informally with Foreign Office and cable reply.
BRYAN.

Minister Whitlock to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, October 16, 1914.

As I have already reported to the Department, a committee of notable citizens of Brussels was appointed several weeks ago under patronage of the Spanish Minister and myself to give food to the

poor of this city. This work, which had the approval of the Belgian Government and of the German military authorities, has been carried on with excellent results. But now a grave situation confronts the land. In normal times Belgium produces only one-sixth of the food-stuffs she consumes. Within two weeks there will be no more food in Belgium. Winter is coming on and there are thousands who are without home and without hope, therefore it is necessary to extend this relief work to the whole of Belgium. My Spanish colleague and I have been requested by the local Belgian authorities and by the German military authorities to permit the organization, under our patronage, of a committee that will undertake to revictual all of Belgium and we have secured from the German military authorities formal official assurance that all foodstuffs shipped into Belgium in the care of the committee and intended for the feeding of the impoverished civil population will be respected by the soldiery and not made the object of military requisition. It is now necessary to obtain permission from the English Government that foodstuffs may be shipped into Belgium. In view of this fact Gibson goes to London tomorrow with messages from the Spanish Minister and me to the respective ambassadors of our countries to lay the subject before them. Baron Lambert and Mr. Franqui, representing the Belgian Relief Committee, will accompany him to acquaint the Belgian Minister in London with the situation and ask him to present the matter to the British Government. Our hope is that the Belgian Minister can arrange, and if there be no impropriety in their so doing, that the American and Spanish ambassadors may assist him in arranging for the passage of the provisions which the committee is ready to buy.

I trust the Department will approve this course and further it by instructions to London. It is not money but food that is needed. If some appropriate means can be found to call the attention of our generous people at home to the plight of the poor in Belgium, I am sure that they will send succor and relief for the winter that is drawing near. It seems to me to be a work of mercy that will touch the hearts of those who are brought to understand it and give our people in America an opportunity to serve nobly in a high cause.

WHITLOCK.

The Acting Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 19, 1914.

Telegram from Embassy, Berlin, 17th instant, states that German Government approves of plan to supply the population of Belgium with food. You are authorized therefore to proceed on lines of your 786, October 6.¹

LANSING.

¹ Not printed; substance stated in instruction to Ambassador Gerard, October 7, 1914, *supra*, p. 236.

The Acting Secretary of State to Minister Whitlock.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 19, 1914.

Your 548, 18.¹ The plan of the Belgian committee in Brussels to import foodstuffs for poor of Brussels has been approved by the German Government and the Embassy in London has been so advised.
LANSING.

The Acting Secretary of State to Minister Whitlock.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 20, 1914.

Your telegram October 16, 10 a. m. transmitted via London regarding relief of Belgium. Department approves your action and has given instructions to the Ambassador at London to render you and your Spanish colleague every assistance.
LANSING.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, October 26, 1914.

Your 389, October 24. The commission of Belgian relief working under diplomatic guidance of Spanish Ambassador here and myself has written assurance of the German military commander of Belgian territory held by the Germans that food sent them by this commission will not be confiscated. So far as I know this assurance has not been given to anyone else who may send food. No food can be exported from England or Holland, but the Netherlands Government has given this commission permission to distribute food landed at Rotterdam through our agents to people in Belgian territory. Since food cannot be bought on this side the world, American committees should not send money but should confer with Hoover, chairman of this commission, care of this Embassy, regarding what kind of food to send and how to ship it. Commission has agents in every neighborhood in Belgium. It has in fact taken charge of practically all grocery stores. Money sent will be of no use. Food sent except through commission may never reach Belgium or be confiscated.

PAGE.

¹ Not printed.

The Acting Secretary of State to Ambassador Herrick.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 31, 1914.

At request of American Minister at The Hague you are instructed to ask whether France will give assurance of recognition of neutrality of goods shipped for American commission for relief in Belgium.

LANSING.

The Acting Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 7, 1914.

Belgian commission requests that you secure from German Government unmolested passage for neutral food ships from United States to Holland for Belgium. This has been done by British Government.

Also inform Department whether German Government has placed embargo on importation into Belgium, in neutral ships, of thoroughly disinfected and cleaned secondhand clothing.

LANSING.

Ambassador Herrick to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Paris, November 11, 1914.

Your 253, 10th. Foreign Office states that instructions have already been sent French Minister at The Hague to offer no objection to transit of foodstuffs through the Netherlands from United States destined to Belgium. At Embassy's request Foreign Office stated it would repeat instructions to Minister at The Hague.

HERRICK.

The Acting Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 20, 1914.

At the request of the commission for Belgian relief, you may obtain, if possible, from the German Government safe passage of British as well as neutral ships bound for Rotterdam with food for starving Belgians. Such ships will fly the commission's flag. Please ask German Government also whether permission of military authorities in Belgium may be obtained for Americans with automobiles to go from

place to place engaged in food distribution. Such Americans will carry commission's flag and have letters each with bearer's photograph from the commission, countersigned by the Spanish and American ambassadors at London.

LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, November 23, 1914.

Your 590, 7th, and 677, 20th.

German Government is entirely in sympathy with laudable work of American commission for Belgian relief. German naval forces cannot lawfully seize food on neutral ships bound for neutral ports. Germany will not interfere with any neutral ships bound for Holland with food from the United States even if food is destined for Belgium. Subject to revoke German Government agrees to permit unneutral ships also to carry food for Belgians to Dutch ports and will give same guarantee that food is put to intended uses as for neutral ships. German Government recommends that as precaution such unneutral ships carry certificate from competent American authority testifying that ship carries food for the Belgians to be brought to Belgium via Dutch ports by American Commission for Belgian relief with the consent of the German Government, and that unneutral ships also have pass which German Ambassador, Washington, will issue upon certificate above described. Inquiry made about distribution of food by Americans in automobiles.

GERARD.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 1, 1914.

EXCELLENCY:

The Department is in receipt of a telegram from the American Ambassador at Berlin, transmitting the information that the German Government is entirely in sympathy with the laudable work of the American commission for the Belgian relief. It is well understood that German naval forces cannot lawfully seize food on neutral ships bound for neutral ports and that Germany will not interfere with any neutral ship bound for Holland with food from the United States, even if the food is destined for Belgium. Subject to revocation, the German Government also agrees to permit unneutral ships to carry food for Belgium via Dutch ports and will give guarantee that the food is utilized to the purpose intended. The German Government

recommends, however, that as a precaution such unneutral ships shall be furnished with a certificate from competent American authorities testifying that such food carried by unneutral ships via Dutch ports is intended for the relief of Belgians and, further, that the unneutral ships shall also be provided with a pass issued by your Embassy authenticating the certificates issued by the American Government.

The Department believes that the above should be a satisfactory arrangement and hopes that it will meet with Your Excellency's approval.

An early reply to this note would be greatly appreciated.

Accept, etc.,

W. J. BRYAN.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,

Washington, D. C., December 4, 1914.

MR. SECRETARY OF STATE:

In acknowledging the receipt of Your Excellency's kind note of the 1st instant, I have the honor to reply to Your Excellency that I concur in the proposals therein made.

Accept, etc.,

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,

Washington, December 5, 1914.

MR. SECRETARY OF STATE:

Supplementing my note of the 4th instant I have the honor to inform Your Excellency that I have instructed the German Consul concerned to issue, upon American witnesses being brought before them, safe conduct to unneutral ships carrying victuals for Belgium.

Accept, etc.,

J. BERNSTORFF.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,

London, December 8, 1914.

American commission relief in Belgium provide minimum 80,000 tons cereal foodstuffs monthly and could handle situation except for shipping difficulties. Thirty to forty ships needed constantly. Neutral bottoms being unavailable, have chartered some British ships

and have German agreement not to interfere. Reluctance of British owners to send ships to Rotterdam paralyzing program of mercy, execution of which hourly more imperative. Commission desire to know if American Government would furnish naval ships with or without charter on payment of reasonable price. Commission hope character of enterprise will warrant Government giving it assistance sorely needed.

SKINNER.

The Secretary of State to Consul General Skinner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 10, 1914.

Your December 8. Department informed by Navy Department there are no suitable ships which can be utilized for purpose mentioned. Department suggests that commission through its American representatives might charter neutral vessels. Please communicate this to American Ambassador, London.

BRYAN.

Ambassador Gerard to the Secretary of State.¹

[Telegram.]

AMERICAN EMBASSY,
Berlin, December 11, 1914.

Department's 677, November 20. Foreign Office informs me that desired passes for Americans with automobiles for food distribution Belgium have been issued by arrangement between competent passport authorities in Belgium and American Relief Commission.

GERARD.

Memorandum to the German Embassy.

DEPARTMENT OF STATE,
Washington, December 18, 1914.

The Department of State presents its compliments to the Imperial German Embassy and has the honor to state that a letter has been received from Mr. Lindon W. Bates, vice chairman of the American Commission for Relief in Belgium, requesting that an expression of the commission's very great appreciation of the prompt and thorough arrangements which have been effected with reference to obtaining safe conduct for unneutral ships sailing for Belgium and Holland loaded with food supplies for the relief of Belgium be conveyed to His Excellency Count von Bernstorff.

¹ Repeated to the Embassy at London and the Legation at The Hague.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, December 28, 1914.

SIR: Supplementing my telegram of even date, I have the honor to transmit to you herewith a copy and translation of a Note Verbale, received from the Imperial German Foreign Office, dated December 24, 1914, relative to the wording of the certificates with which the German Government desires unneutral ships carrying food for Belgians to be provided.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador Gerard.

FOREIGN OFFICE,
Berlin, December 24, 1914.

NOTE VERBALE.

In supplement to its Note Verbale of November 23, 1914, No. II W. K. Be. 179, relative to the supply of food for the population of Belgium, the Foreign Office has the honor to inform the Embassy of the United States of America that it appears desirable that the following statements should be included in the certificates with which unneutral vessels are to be provided:

- (a) The express declaration:
 - (1) That the ship contains solely food (and clothing) for the population of Belgium, to be unloaded in a Dutch port;
 - (2) An undertaking of the master of the vessel on his word of honor to abstain from any and all actions on the outward or return voyage, involving assistance to our opponents.
- (b) It is further desired that the following should be pointed out in the certificates:
 - (3) That certificate and pass are valid only for the single outward voyage, and are to be delivered to the German Consul upon arrival at the Dutch port of destination or to the German Minister at The Hague if there is no such Consul. Similar papers for the return voyage will be issued by the Imperial German Legation at The Hague;
 - (4) That the papers do not bar a search of the vessel, and the cargo must be stowed so that search can be conducted quickly and easily;

- (5) That the date of departure from the United States is to be communicated to the Imperial German Ambassador at Washington; the date of the departure from the Netherlands on the return voyage is to be communicated to the Imperial German Minister at The Hague;
- (6) That an offense against these provisions or against the obligations assumed works forfeiture of all right to preferential treatment.

The Foreign Office begs to request the Embassy of the United States of America to be good enough to take the necessary steps in order that the Certificates may be worded in accordance with what has been stated above.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, December 28, 1914.

The Foreign Office informs me that the British naval authorities will undertake in the future to facilitate the voyage only of such charity ships to Rotterdam as contain whole cargoes of food for Belgian relief; it is important therefore that such ships should not contain other cargo, and to secure this protection all ships for Belgian relief must be reported by Lindon Bates, the commission's representative in New York, to the British Ambassador in Washington. After conferring with Sir Cecil Spring-Rice it might be advantageous to give this arrangement wide publicity, because certain societies and committees continue to ship contributions of food in ships that carry other cargo.

PAGE.

Minister van Dyke to the Secretary of State.

AMERICAN LEGATION,

[Extract.]

The Hague, December 29, 1914.

SIR: I would respectfully call your attention to a report which appeared in the American newspapers a month or six weeks ago, to the effect that the German civil commander of the Belgian province of Limburg had exacted a severe import tax on foodstuffs sent into that province from Rotterdam by the American Commission for Relief in Belgium. Immediately upon my arrival here I sent for the manager of the branch of that commission which is stationed in Rotterdam, and learned from him that the facts as stated were correct, and that the aforesaid import tax was still demanded. I there-

fore sent the inclosed letter¹ to our manager, instructing him to discontinue shipments into the Belgian province of Limburg until the tax was removed, and a promise made by the German civil commander to refund the money hitherto exacted. Copies of the letter have been sent to our Minister at Brussels and to our Ambassador at Berlin.

I have, etc.,

HENRY VAN DYKE.

Minister Whitlock to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, January 2, 1915.

I have received today assurance from Baron von Bissing, German Governor General in Belgium, that orders have been given forbidding all further requisition of foodstuffs of whatever sort in Belgian territory occupied by German troops, and that the protection thus afforded covers cattle and their food as well. He will give any reiterated assurances that we may desire on any occasion that foodstuffs will not be requisitioned, and that we may establish and maintain any kind of control that we may see fit to adopt in connection with our relief work for the civil population. Similar assurances were given to my Spanish colleague.

WHITLOCK.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, January 2, 1915.

SIR: With reference to my dispatch No. 376, dated December 28, 1914, on the subject of the arrangements for supplying the population of Belgium with food, I have the honor to transmit to you herewith a copy of an unofficial note, written by me to His Excellency Mr. Zimmermann, Imperial Undersecretary of State for Foreign Affairs, relative to the desire of the Belgium Relief Commission that the German military authorities in Belgium will not make any further requisitions of food supplies while the international commissions are sending in food, and of a reply received from the Undersecretary, dated December 31, 1914. My telegram No. 1195, of December 26 last, informed you of my action in this matter.

I have, etc.,

JAMES W. GERARD.

¹ Not printed.

[Inclosure 1.]

*Ambassador Gerard to the Undersecretary of State for Foreign Affairs.*AMERICAN EMBASSY,
Berlin, December 28, 1914.

MY DEAR MR. SECRETARY:

After my call on you last Saturday, on which occasion I was not acting officially, but as one of the honorary chairmen of the Belgian Relief Commission, I sent to my Government and to the chairman of the commission the following telegram:

Acting not officially, but as one of honorary chairmen Belgian Relief Commission, called today with Spanish Ambassador and Netherlands Minister on Undersecretary of State Zimmermann, who gladly and without hesitation assured us that commanding general in Belgium will give assurances to American, Spanish, and Netherlands Ministers in Belgium that German military authorities will not make any further requisitions of food supplies in Belgium while the international commissions are sending in food, and for a reasonable time after the last delivery.

There is, however, another matter in which the Belgian Relief Commission required the assurance of the German Government. Supplies are being sent to Belgium in British ships. These ships fly the flag of the commission, and carry nothing but these supplies for Belgium. Will the Imperial Government not give a public assurance that these boats will not only not be interfered with on the voyage to Belgium, but that there will be no interference with these ships on their return to British ports, so long as they return direct to such ports and sail under the flag of the commission?

I have, etc.,

JAMES W. GERARD.

[Inclosure 2—Translation.]

*The Undersecretary of State for Foreign Affairs to
Ambassador Gerard.*FOREIGN OFFICE,
Berlin, December 31, 1914.

The undersigned has the honor to inform His Excellency, Mr. Gerard, Ambassador of the United States of America, with reference to the esteemed note of the 28th instant, that the Imperial Governor General in Belgium will issue without delay an order prohibiting all the troops under his command from requisitioning food or forage of any kind whatsoever which would require to be replaced by importations by the American committee for Belgian relief. The Governor General will in addition authorize the Minister of the United States of America and the Spanish Minister at Brussels, as honorary chair-

men of the committee, to convince themselves in any way which may to them appear advisable that the prohibition is observed most scrupulously.

With regard to the desire that nonneutral ships bringing food for Belgium may not be interfered with on their return to British ports, and that assurances to this effect might be given, reference is respectfully made to the note verbale of the 24th instant, No. 3 of which contains provisions dealing with this desire.

The undersigned avails, etc.,

ZIMMERMANN.

Minister van Dyke to the Secretary of State.

AMERICAN LEGATION,

The Hague, January 4, 1915.

SIR: Referring to my dispatch No. 184, of December 29, 1914, I have the honor to report that the import duty on flour which was exacted by the German civil commander of the Belgian Province of Limburg has been removed, and the sum of 8,000 francs which had been collected under the tax has been refunded.

I have therefore withdrawn the prohibition issued to the Commission for Relief in Belgium, referred to in the above-mentioned dispatch, in regard to shipments of foodstuffs into the Belgian Province of Limburg.

I have, etc.,

HENRY VAN DYKE.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,

Washington, January 13, 1915.

Ascertain from Foreign Office whether German civil commander of Belgian Province Limburg is exacting severe import tax on foodstuffs sent for relief of Belgians from Rotterdam by American commission.

BRYAN.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,

Berlin, January 17, 1915.

Van Dyke informs me tax removed and money collected refunded. Have therefore asked German Foreign Office to drop investigations previously requested at Van Dyke's instance.

GERARD.

The Secretary of State to Minister van Dyke.

DEPARTMENT OF STATE,
Washington, January 21, 1915.

SIR: The Department has received your dispatch, No. 184, of December 29, 1914, with reference to the tax imposed by the German civil commander of the Belgian province of Limburg on foodstuffs sent into that province from Rotterdam by the American Commission for Relief in Belgium.

This information was telegraphed to the Embassy at Berlin on January 13, and a reply, dated January 17, has been received stating that you have informed the Ambassador that the tax has been removed and the money collected refunded. The Department has, therefore, telegraphed you to-day (copy of message inclosed) ¹ asking you to confirm the facts and report.

I am, etc.,

For the Secretary of State,
ROBERT LANSING.

The Secretary of State to Minister van Dyke.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 21, 1915.

Your dispatch 184, December 29.

Department informed from Berlin tax removed and money collected refunded. Please confirm facts and report.

BRYAN.

Minister van Dyke to the Secretary of State.

AMERICAN LEGATION,
The Hague, January 22, 1915.

SIR: Referring to your cablegram No. 81, of January 21, I have to-day sent you the following reply by cable:

I confirm facts. Report follows.

Herewith I have the honor to make the report for which you have asked.

According to my dispatch No. 184, of December 29, 1914, I sent the letter which was inclosed with that dispatch to Captain Lucey, manager of the Rotterdam branch of the Commission for Relief in

¹ *Supra.*

Belgium, and a copy of the same to the American Ambassador at Berlin, inclosing it in a letter of which I herewith send you a copy. On December 31 I received from the Rotterdam branch of the Commission for Relief in Belgium a letter dated December 29, of which you will find a copy inclosed, stating that "the matter of duty on imports into the province of Limburg has been taken care of and settled."

On the same day I replied to this letter as follows:

If effective instructions have been issued to the German civil governor of the province of Limburg in Belgium that foodstuffs shipped by our commission are to enter free of duty, you may resume shipments from the Netherlands into that province at your convenience. Otherwise not.

And on January 4, by the next American mail, I sent you my dispatch No. 187, reporting the facts.

On January 8 I received a letter from the American Ambassador in Berlin, of which I beg to inclose a copy, together with a copy of my reply,¹ made the same day.

I am convinced that the imposition of the import duty on flour by the German civil governor of the Belgian province of Limburg, was due entirely to a mistake on his part. But it was a mistake of such nature that it threatened, if not corrected, to cast doubt upon the absolutely neutral character of our relief work in Belgium, and thus to call forth possible objections from Great Britain and France on the ground that we were contributing to the revenue of a belligerent power.

I have, etc.,

HENRY VAN DYKE.

[Inclosure.]

Ambassador Gerard to Minister van Dyke.

AMERICAN EMBASSY,
Berlin, January 6, 1915.

MY DEAR COLLEAGUE:

I have the honor to acknowledge the receipt of your letter of the 26th ultimo regarding the reported action of the German civil commander of the Province of Limburg in imposing an import duty on flour shipped into Belgium via Rotterdam by the American Commission for Relief in Belgium. I have at once informed the Imperial German Government of the facts and have requested that this official

¹ Not printed.

be directed to desist from imposing this tax and to refund the sums already collected in this manner. In view of the reiterated assurances, both written and oral, which I have received from the German Government of its sympathy with this movement for relief in Belgium, I am persuaded that this action of the civil commander of the Province of Limburg results from misapprehension on his part regarding the facts of the case and is not in accord with the sentiments entertained by his Government, and that I feel confident orders will promptly be issued to him in the desired sense.

I am, etc.,

JAMES W. GERARD.

Minister van Dyke to the Secretary of State.

AMERICAN LEGATION,

The Hague, January 22, 1915.

SIR: In connection with the work of the Commission for Relief in Belgium, I have the honor to report that the Netherlands Government has granted free use of the Government railways for the transportation of relief supplies to the Belgian border, and free use of the Netherlands Postal and Telegraphic Service for the transmission of the letters and telegraphs of the commission. I report this as indicating the Netherlands Government's willingness to assist in every possible way with the work which the commission is doing.

I have also requested the Foreign Office here to designate two Netherlands citizens who might be employed in the office of the Rotterdam branch of the commission, in order to secure a full understanding and coöperation on the part of the Dutch authorities with the details of the commission's work. This has been done.

The Netherlands Government has also granted an exemption from the payment of import duty, and from the giving of surety for the twelve motor cars employed by the commission in service between Holland and Belgium, and *vice versa*.

I have, etc.,

HENRY VAN DYKE.

Minister Whitlock to the Secretary of State.

AMERICAN LEGATION,

Brussels, January 26, 1915.

SIR: I have the honor to transmit herewith inclosed copy¹ and translation of a note received from the German civil authorities at

¹ Not printed.

Brussels giving me the assurance of the Governor General that foodstuffs imported for the region of Givet and Fumay, in that part of France upon the Belgian border as far as the Meuse, will be exempt from requisition.

After investigating conditions in this district, the representatives of the Rockefeller Foundation who have recently been here, have agreed to furnish the foodstuffs for this district on condition of their being transported thither by the Commission for Relief in Belgium.

I have, etc.,

BRAND WHITLOCK.

Minister Whitlock to the Secretary of State.

AMERICAN LEGATION,
Brussels, January 28, 1915.

SIR: I have the honor to transmit to you copies and translation of correspondence¹ concerning the collection of customs duties on foodstuffs consigned to me for distribution to the civil population of Belgium.

As will be seen from this correspondence the matter has been satisfactorily adjusted.

I have, etc.,

BRAND WHITLOCK.

Minister Whitlock to the Secretary of State.

AMERICAN LEGATION,
Brussels, January 28, 1915.

SIR: Referring to previous correspondence in regard to exception from requisition by military authorities of foodstuffs in Belgium, I have the honor to transmit inclosed copies and translations¹ of a communication received from the German military authorities in Brussels, stating that although the agreement relative to the suspension of requisitions did not state that exception was made of the city of Antwerp, such was, however, the intention of the Government.

I have, etc.,

BRAND WHITLOCK.

¹ Not printed.

Minister Whitlock to the Secretary of State.

AMERICAN LEGATION,
Brussels, January 28, 1915.

SIR: I have the honor to transmit copies and translation of a letter from the German military authorities informing me that cattle and their food will hereafter be exempt from military requisition when imported by the *Comité National de Secours et d'Alimentation*.

I have, etc.,

BRAND WHITLOCK.

[Inclosure—Translation.]

The Governor General in Belgium to Minister Whitlock.

ADMINISTRATION HEADQUARTERS,
Brussels, January 13, 1915.

I have the honor to inform Your Excellency that the Governor General in a decision given on the 5th of this month has exempted from military requisition not only foodstuffs imported by the *Comité National de Secours et d'Alimentation* into Belgium from abroad for the civil population, but has extended this measure to food necessary for beasts and cattle imported by the committee.

Furthermore, as a consequence of the attached order issued December 26, by the Governor General certain classes of animals are protected against military requisition.

In this manner many of the wishes expressed by the National Committee's agricultural section are met.

I have, etc.,

D. VON SANDT.

The German Ambassador to the Secretary of State.

New York, January 28, 1915.

With reference to my note of 21st instant,¹ I now beg to state that the German Government gives formal assurance that foodstuffs imported from the United States will not be used by the Government for the military or naval authorities and will not reach any contractors of the Government. The German Government guarantees that it will not interfere with the distribution of such foodstuffs by the American importers to the civilian population exclusively.

J. BERNSTORFF.

¹ Not printed.

Minister Whitlock to the Secretary of State.

AMERICAN LEGATION,
Brussels, February 3, 1915.

SIR: I have the honor to transmit herewith for the information of the Department, copies and translation of correspondence relative to the revictualing of the Maubeuge district, through the agency of the Commission for Relief in Belgium.

The necessary guarantees of nonseizure and nonrequisition having been granted by the German authorities, the Maubeuge region will be administered as a part of Belgium so far as relief work is concerned.

I have, etc.,

BRAND WHITLOCK.

Ambassador Sharp to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Paris, February 10, 1915.

Your 528, January 29.¹ Foreign Office has given assurance that it will make no objection to shipment cargo Argentine maize to Rotterdam for distribution relief of Belgian and French people in territory controlled by the Germans. In consenting to this and other similar shipments for like purposes and expressing its sympathy for sufferers, French Government reserves its approval because of belief that indirectly in some instances equivalent amount foodstuffs have been sent out of Belgium to Germany.

SHARP.

The Secretary of State to Minister Whitlock.

DEPARTMENT OF STATE,
Washington, February 18, 1915.

SIR: The Department acknowledges the receipt of your dispatch No. 47 of January 28, transmitting copies and translations of correspondence from the German military authorities relative to the exemption of cattle and their food from military requisition when imported by the *Comité National de Secours et d'Alimentation*.

In reply the Department informs you that copies of the correspondence inclosed with your dispatch have been transmitted to the

¹ Not printed.

Committee of Mercy and to the Commission for Relief in Belgium, New York City; also the American Minister at the Hague and to American Ambassadors at London and Paris.

I am, etc.,

For the Secretary of State,
ROBERT LANSING.

The Secretary of State to Minister Whitlock.

DEPARTMENT OF STATE,
Washington, February 23, 1915.

SIR: The Department acknowledges the receipt of your dispatch of January 26, together with a copy of a note received by you from the German civil authorities, with the assurance that foodstuffs imported for the region of Givet and Fumay, in that part of France upon the Belgian border as far as the Meuse, will be exempt from requisition.

The Department, in reply, informs you that copies of your dispatch, together with the German note, have been transmitted to the Committee of Mercy, the Commission for Relief in Belgium, and The Rockefeller Foundation, New York City; also to the American Minister at The Hague and the American Ambassador at London.

I am, etc.,

For the Secretary of State,
ROBERT LANSING.

Minister van Dyke to the Secretary of State.

AMERICAN LEGATION,
The Hague, March 3, 1915.

SIR: Supplementing my dispatch 214 of March 2, and my telegrams 173 of February 27,¹ and 178 of March 2, I have the honor to advise you that the German Minister has called upon me this afternoon, bringing a memorandum from his Government in regard to the ships of the Commission for Relief in Belgium. He expressed his personal regret that the memorandum had been so long delayed.

I have cabled the substance of the memorandum to you and to Mr. Hoover, the chairman of the relief commission in London. Here-with you will find a copy of the memorandum in the German text with an English translation attached.

¹ Not printed.

It will be observed that this assurance covers the freedom of the relief ships, bearing the flag and markings of the commission, from all molestation by German submarines in the voyage through the English Channel, and that orders to this effect have been issued by the German Government. We have thus obtained a concession of distinct advantage.

But the German memorandum expresses regret that safe conduct cannot be issued to relief ships *on their way to and from England, in view of the existing mine danger in the war zone*. The exact meaning of the reservation is not clear.

I have, etc.,

HENRY VAN DYKE.

[Inclosure—Translation.]

The German Minister at The Hague to Minister van Dyke.

The Hague, March 3, 1915.

MEMORANDUM.

Naturally the German Government is anxious to give every possible support to the humanitarian work of the relief commission. It will allow the ships of the commission to pass through the English Channel unmolested, if they are recognizable by the usual signs (i.e., name painted on the sides of the vessel in big letters, and white flag with similar designation in red letters) and visibly illuminated at night. German submarines have received instructions to this effect. The guarantee is given on condition that every measure shall be adopted to exclude the misuse of the signs of the relief commission. The German Government will at once communicate with the American Ambassador here, with a view to obtaining from the British Government a declaration that only ships which are really in the service of the relief commission, will be allowed to carry the signs of that commission.

The German Government regrets that in view of the danger caused within the war zone by mines, it is impossible to issue safe conducts for the ships of the relief commission for the voyage to and from England.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, March 10, 1915.

Sir Edward Grey has communicated with Commission for Relief in Belgium assuring the commission that neither their flag nor their

markings will be used in any way or for any purpose by any officer of His Majesty's Government; also stating that His Majesty's Government will countenance the use of this flag and these markings in all cases where it is used on ships carrying goods of the commission and will discount in all other cases. Will you kindly communicate the above assurance to the German Ambassador in Washington.

PAGE.

Memorandum to the German Embassy.

DEPARTMENT OF STATE,
Washington, March 11, 1915.

The Secretary of State presents his compliments to His Excellency the Imperial German Ambassador and has the honor to transmit herewith a copy of a telegram received from the American Ambassador at London, stating that the British Government has given assurance that no officer of that Government will be permitted to use the flag or markings used by the Commission for Relief in Belgium on its vessels.

The Department also transmits herewith paraphrase of a telegram received from the American Ambassador with reference to the attitude of the British Government toward the work of that commission.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 3, 1915.

For Relief Commission. Department informed from The Hague that commission's vessel *Elfland* was attacked Sunday, March 21, by German aeroplane off Dutch coast. Department advised to-day that German Admiralty explains that markings of relief ship not recognizable and suggests display commission markings flat on upper deck. Orders have been given aeroplanes and submarines respect all relief commission ships recognizably marked.

BRYAN.

Statement given to the press by Department of State March 24, 1917.

DEPARTMENT OF STATE,
Washington, March 24, 1917.

By direction of the President the Minister at Brussels has been instructed to withdraw from Belgium, with all diplomatic and consular officers, and take up his official residence at Havre.

After consultation with the Commission for Relief in Belgium, Mr. Whitlock has also been instructed to arrange for the departure of the American members of the Commission.

This step, the seriousness of which is fully appreciated by the Government, was taken only after careful consideration and full consultation with all the interests involved.

When diplomatic relations with Germany were broken off the normal procedure would have been to withdraw the Minister at Brussels and the American members of the Relief Commission. But this Government and the Commission, however, felt a heavy moral responsibility for the millions of innocent civilians behind the German lines, and it was decided that the work of the Commission must be kept going despite all difficulties until continued American participation became impossible. For over two years it has been the single-minded purpose of this Government and the Commission to see that these ten millions of civilians were fed, and, with this end in view, the Americans concerned have submitted to restrictions imposed on them by the German authorities which, under ordinary conditions, would never have been tolerated.

Immediately after the break in relations the German authorities in Brussels withdrew from Mr. Whitlock the diplomatic privileges and immunities which he had until that time enjoyed. His courier service to The Hague was stopped; he was denied the privilege of communicating with the Department of State in cipher, and later even in plain language. The members of the Relief Commission were placed under great restrictions of movement and communication which hampered the efficient performance of their task. In spite of all these difficulties the Government and Commission were determined to keep the work going till the last possible moment.

Now, however, a more serious difficulty has arisen. In the course of the past ten days several of the Commission's ships have been attacked without warning by German submarines in flagrant violation of the solemn engagements of the German Government. Protests addressed by this Government to Berlin through the intermediary of the Spanish Government have not been answered. The German Government's disregard of its written undertakings causes grave concern as to the future of the relief work. In any event it is felt that the American staff of the Commission can no longer serve with advantage in Belgium. Although a verbal promise has been made that the members of the Commission would be permitted to leave if they so desire, the German Government's observance of its other undertakings has

not been such that the department would feel warranted in accepting responsibility for leaving these American citizens in German-occupied territory.

This Government has approved the proposal of the Netherlands Government to send into Belgium a certain number of Netherlands subjects to carry on the work thus far performed by the American staff.

PART XXI.

DEPORTATIONS OF CIVILIANS FROM BELGIUM.

Chargé Grew to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Berlin, October 10, 1916.

Mr. Grew reports that he has received from Minister Whitlock at Brussels copies of letters from the President of the *Comité National de Secours et d'Alimentation* of Brussels together with copies of orders in proof of the statements contained in the letters to the effect that complete lists of all workmen who are unemployed and who receive aid in the district (*étape*) have been demanded from the presidents of the local committees by the German military authorities, and that presidents were imprisoned if they refused to furnish the lists demanded. The President states that the object is to send such unemployed to Germany as laborers for military purposes. That men are forced to labor is proved by letters attached.¹

The Acting Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 19, 1916.

Mr. Polk states that if Mr. Grew should deem it advisable he may draw to the Foreign Minister's attention informally and orally the action of the German military authorities in Belgium and its object as alleged.

¹ Not printed.

Chargé Grew to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, October 23, 1916.

Mr. Grew reports that he has brought informally and orally to the attention of the Under Secretary of State for Foreign Affairs the question of the Belgian laborers. The Under Secretary has promised to investigate the matter at once and to inform Mr. Grew of the result.

Chargé Grew to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Berlin, October 27, 1916.

Mr. Grew states that he sought a further interview with the German Under Secretary for Foreign Affairs at which he told that official, informally and orally, that he understood the policy had been definitely determined upon by the military government in Belgium of enforcing labor on Belgian citizens, and that many of them would be transported to Germany to be put to work in various industries, in this way releasing German workmen to go to the front. A memorandum was handed to Mr. Grew by the Under Secretary which states that compulsory measures were to be adopted against the Belgian unemployed who are a burden to charity so that friction arising therefrom may be avoided. These measures are designed to make them work, so far as the men are not inclined voluntarily to work. Mr. Grew reports that he pointed out that this decision, as it involved a definite breach of international law, undoubtedly would make a very bad impression abroad.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 2, 1916.

Mr. Lansing states that in view of the serious consequences that may follow as a result of the proposed policy in Belgium, apart from any humanitarian considerations, Mr. Grew is authorized to make request for an interview with the Chancellor. The extent to which his informal representations with the Chancellor should go is left to the discretion of Mr. Grew, who must be guided by the general attitude of the Chancellor and by circumstances. Mr. Grew should, however, point out the unfortunate impression which would be created by the proposed policy in neutral countries, and especially in the United States, which country has very much at heart the welfare of the Belgian civil population.

The Secretary of State to Chargé Grew.

[Telegram—Paraphrase—Extract.]

DEPARTMENT OF STATE,
Washington, November 29, 1916.

Mr. Grew is directed to obtain an interview with the German Chancellor as soon as possible and repeat to him the following:

"The Government of the United States has learned with the greatest concern and regret of the policy of the German Government to deport from Belgium a portion of the civilian population for the purpose of forcing them to labor in Germany, and is constrained to protest in a friendly spirit but most solemnly against this action, which is in contravention of all precedent and of those humane principles of international practice which have long been accepted and followed by civilized nations in their treatment of noncombatants in conquered territory. Furthermore, the Government of the United States is convinced that the effect of this policy, if pursued, will in all probability be fatal to the Belgian relief work, so humanely planned and so successfully carried out, a result which would be generally deplored and which, it is assumed, would seriously embarrass the German Government."

Chargé Grew to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, December 20, 1916.

Following note received from Foreign Office, dated December 18th:

"The Foreign Office has the honor to inform the Embassy of the United States of America with reference to the memorandum regarding the deportation of Belgian workmen to Germany, that owing to a number of complaints which have been raised by Belgian workmen on account of their transportation to Germany, three hundred and twenty-six of such workmen have up to the present been sent back to Belgium as not coming under the rules of the order of the Governor General in Belgium, dated May 15, 1916. The remainder of the complaints shall be investigated with all possible expedition."

GREW.

*Chargé Grew to the Secretary of State.*AMERICAN EMBASSY,
Berlin, December 21, 1916.

SIR: With reference to my telegram No. 4756 of December 20, 1916, 3 p.m., regarding the return to Belgium of a number of Belgian

workmen on the ground that they had been transported to Germany contrary to the provisions of the order of the Governor General of Belgium, dated May 15, 1916, I have the honor to transmit herewith, for the Department's information, a copy and translation of the order referred to.

I have, etc.,

J. C. GREW.

[Inclosure—Translation.]

REGULATIONS GOVERNING IDLENESS.

Canceling the regulation, under the same heading, dated August 13, 1915 (*Gesetz- und Verordnungsblatt No. 108, Page 889*) I ordain as follows:

ARTICLE 1.

Persons, intentionally or carelessly making false statements regarding their personal circumstances when inquiries are being made with the object of ascertaining the necessity of relief for them, shall be punished with imprisonment up to six weeks, in case a more severe punishment is not incurred in accordance with the existing laws; aside from that a fine up to Marks 1,000 can be imposed.

ARTICLE 2.

Persons declining the acceptance or continuation of work offered them and which stands in accordance with their ability without sufficient reason, although relief is granted them from public or private funds or they become in need of relief owing to such refusal, shall be punished with imprisonment of from fourteen days to a year.

Principally every reason justified by international law shall be considered sufficient.

Instead of prosecuting, the compulsory deportation to the place of work can be ordered by the Governors and Commanders, enjoying equal rights as well as the County Chiefs.

ARTICLE 3.

Persons intentionally assisting the refusal of work, punishable according to Article 2, by granting relief or in some other manner, shall be fined up to Marks 10,000, besides which imprisonment up to two years can be imposed.

ARTICLE 4.

In case communities, associations, or other organizations assist the refusal of work according to Article 3, the punishment will be imposed upon the leading persons.

ARTICLE 5.

Amounts proven to be intended for the support of the persons mentioned in Article 2 shall be confiscated for the benefit of the Belgian Red Cross.

ARTICLE 6.

The Military Courts and Military Commanders have jurisdiction for trespasses against the Articles 2 to 4 of the regulations and for such trespasses against Article 1 which have been committed against German Authorities and Troops and against Authorities and Organizations instituted by me.

The criminal courts of the Belgian Courts of First Instance shall have jurisdiction for such trespasses against Article 1 of the regulation, which, according to the above, do not come under the jurisdiction of the Military Courts and Military Commanders.

BRUSSELS, May 15, 1916.

The Governor General in Belgium.

FREIHERR VON BISSING,
Generaloberst.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, January 2, 1917.

Hoover submits following statement:

“There has been no apparent change in German policy since the President’s protest. Deportation continuing on a large scale, now apparently three to five thousand per week. Despite assertions made to the President no distinction is made as to whether deportees are unemployed or not, and in fact there seems a definite policy to secure all members of certain trades and the desire to secure these and other skilled labor leads press gangs to delegate choice of those in actual employment. Moreover, they have taken altogether up to December fifteenth over seven hundred persons employed by the commission despite the exhibit of credentials and their specific agreement with us to the contrary against our protest. Furthermore, our American members have witnessed the taking of several thousands, particularly from Flanders, to northern France, and together with local French people are now being forced to work for the German army in the preparation of timber and fascines for the trenches. Refusal to perform such labor has here been met with refusal of food and other brutal acts. It is also reported to us from what we believe to be reliable sources that Belgian and French civilians have been deported to work on trench construction in northern France, and certain de-

portees have been recently returned wounded by shell fire. Of the deportees to Germany some three hundred have been returned to Hainaut Province, of whom a part were apparently returned because physically unable to work, but the remainder maintain that they were returned because of their steadfast passive resistance to pressure; although they were entirely refused food over a considerable period and were ultimately returned for their recalcitrancy. Their appearance confirms this. Altogether the assurances given the President that only unemployed people were taken and that they are not being employed on military work or brutally treated are absolutely untrue, not only before but since assurances were given. It does appear that the civil government in Brussels has made some efforts to prevent brutality in selection, to confine selections to unemployed, and to protect the employees of the commission, and they have even solicited complaints, but they appear unable to control the military press gangs or effect any remedies.

"The hourly witnessing of these outrages and the prayers to the Americans from a people now in a state of complete terror, since Americans have been so peculiarly their protectors during the past two years, make it difficult for us to control the natural feelings of our staff, and we can only hope that no untoward incident may occur."

PAGE.

Minister Whitlock to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN LEGATION,
Brussels, January 2, 1917.

Mr. Whitlock reports that it is very difficult to obtain information that is accurate regarding deportations because facilities for communication are lacking in Belgium.

There is no communication with that part of Belgium exclusively under the jurisdiction of the military, which includes certain parts of Hainaut and the two Flanders and also all Northern France and parts of Hainaut and Luxemburg. Deportations continue one day in this commune, one day in another. There have been taken, it was estimated, between sixty thousand and one hundred thousand men. Possibly two thousand of these have been returned. Those returning from Germany have brought accounts which are distressing concerning the cruelties resorted to in forcing them to sign employment contracts, and concerning hunger, suffering, and lack of shelter. Requisition of the stocks and materials in the few industries which are still in operation continues, thus complicating the situation as the numbers of unemployed who are thereby formally exposed to deportation are increased.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, January 8, 1917.

MR. SECRETARY OF STATE:

I have the honor to inclose a memorial sent me by my Government on the employment of Belgian laborers in Germany, refuting the false statements of Germany's enemies. In case Your Excellency should not express any objections, I intend to publish it here in the near future.

Please accept, etc.,

J. BERNSTORFF.

[Inclosure—Translation.]

EMPLOYMENT OF BELGIAN LABORERS IN GERMANY.

I.

The compulsory employment of Belgian laborers in German works is utilized by our enemies as a welcome occasion in order to stir up the public opinion of neutral and hostile foreign countries against this alleged recent violation of the Belgian people. This propaganda threatens to assume considerable proportions, and it may even be considered likely that the Entente will attempt to induce neutral Governments or high neutral personages to make a formal protest. An explanation of the causes and effects of the disapproved measures therefore appears necessary in order to prevent a one-sided judgment of the question.

Those who, far away from the scenes of the war, are able to judge the conditions in the territories occupied in the west only in a superficial manner will perhaps not understand so easily that the measures taken are not only by no means injurious to the population of these regions from an economic standpoint, but had become to a certain extent a social necessity owing to the peculiar conditions prevailing there. He who wishes to comprehend this must first picture to himself the extent and effects of the nonemployment in Belgium. The chief cause of this is the British naval blockade, which is being ruthlessly enforced even against Belgium. Belgian industry is so greatly dependent on the importation of raw materials and the exportation of manufactured articles that the almost complete stoppage of foreign trade by England necessarily entailed automatically the paralyzation of by far the greater part of Belgian industries. This is especially the case with the important iron and steel industries, textile and clothing industries, and the ceramic and glass industry, which together employed over half a million workmen in time of peace, as well as with the leather, tobacco, paper, and chemical industry. Even fishing has entirely ceased in consequence of the blockade of the North Sea coast. A number of other enterprises had to be suspended because the materials used and their transportation had become so

dear that the work was conducted at a loss; this occurred, among others, with the building industry (employing in peace 95,000 laborers) and the wood and furniture industry (80,000 laborers). The important mining industry owes it only to extensive exportation of coal to Germany that it is able to employ about nine-tenths of its 145,000 laborers, and the stone quarries also employ one-third of their force, which had hitherto consisted of 35,000 hands, in order to fulfill orders which are mostly German.

That, as frequently asserted in Belgium, requisitions of raw materials and machinery by Germany have considerably increased the unemployment is not true for the reason that these requisitions were made primarily in factories which were unable any way to keep running owing to one of the aforementioned causes.

The result of these occurrences is that, out of 1,200,000 men and women who worked in Belgian industrial enterprises before the war, and who represent about half of all persons in Belgium engaged in earning a living, 505,000 (including 158,000 women) are entirely and 150,000 (including 46,000 women) partially unemployed. Altogether there are therefore 655,000 persons, formerly earning their living by labor in industry, who are now dependent upon public assistance, a number which, added to 293,000 wives and 612,000 children of the unemployed, reaches a total of 1,560,000 needy people and represents about one-fifth of the entire population of Belgium.

In so highly a developed industrial nation as Belgium this state of affairs, without precedent in history, had necessarily to entail the gravest economic and social troubles. The sums expended up to the present in order to furnish the bare minimum needed for existence to the unemployed persons and those dependent upon them already amount to over 300,000,000 francs and are likely to amount to no less than 20,000,000 francs a month in future. Even though foreign countries undertook to finance the work of affording this assistance, nevertheless Belgian national economy must eventually bear the burden. The equivalent of these expenditures, which are not made for productive labor, is not only entirely lost to Belgian economic life, but even does it considerable injury. The laborers are so accustomed to idleness by the help afforded them that a Belgian employer at present has difficulty in finding the necessary workmen to keep his enterprise going.

If this fact, in view of the above-cited large number of unemployed, in itself throws a sharp light on the economic troubles created in Belgium by unemployment, then the present condition must be characterized as wholly intolerable from a social standpoint if we picture to ourselves the consequences which the long continuing idleness produces for the laboring population. It is obvious that a trained laborer will lose his ability through long years of idleness, and his value to Belgian industry will therefore be seriously diminished. Even the unskilled laborer, who has been accustomed to a constant exertion of his strength, will be physically impaired by remaining unoccupied for a long time. In a moral way a continuance of present

conditions will be absolutely devastating in its effects. The feeling of humiliation experienced by morally sound persons when they have to beg their living from foreign charity is, in the long run, entirely lost by the laboring classes and they cease to be proud of being able to support their families by their own efforts. The saying that idleness is the beginning of vice is verified to an enhanced degree in the case of the materially inclined Belgian laborer, and the consequences are drunkenness and moral degeneracy in wide circles of these classes of population, among whom family life also incurs many dangers.

All these circumstances, as well as the gradual impoverishment of the laborers' families, who are able to satisfy only the most necessary material needs after consuming all their savings, must inevitably involve a weakening of the whole power of the Belgian people.

II.

Baron von Bissing, Governor General of Belgium, early realized the grave significance of this question to the population of the territory under his administration, and he consequently turned his whole attention to it from the beginning of his official activity. As far as the requirements of warfare permitted, he encouraged the revival of commerce and industry and favored every importation and exportation that was at all possible under the British blockade. He also exhorted the Belgian communal administrations to undertake emergency work that would be of utility to the general public, provided this would not cause any overburdening of the communal finances. The constantly increasing assistance to the unemployed has also been the subject of his unceasing solicitude, as he had long since recognized that such assistance would encourage aversion to work and thus enlarge the number of unemployed. He has therefore repeatedly instructed the authorities under him to see that the help afforded unemployed did not become an obstacle to their resumption of work, and he has also induced the heads of the assistance committees to act along the same lines.

By all these measures it was possible to limit, but by no means remove, the evil, for the reason that the deeper cause, the British naval blockade, made its effects felt more and more as time went on. The Governor General was accordingly obliged, even last year, to resort to a more powerful means in order to counteract the increasing habit of idleness on the part of the people.

At the instance of shrewd Belgians, and with the coöperation of the proper Belgian Ministry, he issued an order in August, 1915, against shirking of labor, which order was supplemented and strengthened in March of this year. These orders contemplate a compulsory removal to the places of work only when the laborer declines without sufficient grounds a job offered him at appropriate wages and within his capacity, and in this connection any ground of refusal based on international law is regarded as sufficient. A workman can accordingly not be forced to participate in warlike enterprises. The orders are directed primarily against certain organized influences which wish

to keep the laborers from voluntarily accepting remunerative work only because it was offered by Germans. They are founded on sound legislative considerations, which restrict the liberty of the individual in the interest of the general public.

The evil conditions which existed even at the time of issuance of these orders having in the course of time become entirely intolerable, the orders are now to be enforced more extensively than hitherto. Before they are applied, a proposition is made to the unemployed workman that he voluntarily enter into an advantageous labor contract, and only in case he stubbornly refuses (usually as a result of incitement) are forcible measures employed. The unemployed who go to Germany are placed on an equal footing there with the German laborers, and they receive higher wages than were ever known in Belgium. Care is taken to send part of these wages to the families remaining behind. The laborers are likewise allowed to carry on correspondence by letter with their families, and they are granted leave to go home at regular intervals. At their request they may even take their families with them to Germany. Provision is also made for religious service in their mother tongue.

III.

The great advantages which accrue to Belgian laborers from the opportunity thus offered them to work, as compared with their previous sorry plight, are so obvious that for a year tens of thousands of them have been voluntarily availing themselves of the offer and have found remunerative labor in Germany. Happy to have escaped the misery caused by many months' idleness and the humiliation of public assistance, they have been able to restore their physical and moral strength by returning to their normal occupation. By the labor of their hands they can again raise their families up to a higher standard economically and make savings for the future. The temporary transplantation to another home does not frighten them, as Belgian laborers are used to wandering and have, in time of peace, often hired out for work in the southern industrial sections of the country or in Northern France for several months for the sake of a much less increase in wages than that now offered. The transfer of Belgian laborers to Germany therefore means a considerable improvement in the situation of these laborers and the abolition of conditions which have become intolerable.

Minister Whitlock to the Secretary of State.

[Extract.]

AMERICAN LEGATION,
Brussels, January 16, 1917.

SIR: . . . In order fully to understand the situation it is necessary to go back to the autumn of 1914. At the time we were organizing the relief work the *Comité National*—the Belgian relief

organization that collaborates with the Commission for Relief in Belgium—proposed an arrangement by which the Belgian Government should pay to its own employees left in Belgium, and other unemployed men besides, the wages they had been accustomed to receive. The Belgians wished to do this both for humanitarian and patriotic purposes; they wished to provide the unemployed with the means of livelihood, and, at the same time, to prevent their working for the Germans. The policy was adopted, and has been continued in practice, and on the rolls of the *Comité National* have been borne the names of hundreds of thousands—some 700,000, I believe—of idle men receiving this dole, distributed through the communes.

The presence of these unemployed, however, was a constant temptation to German cupidity. Many times they sought to obtain the lists of the *chomeurs*, but were always foiled by the claim that under the guarantees covering the relief work, the records of the *Comité National* and its various suborganizations were immune. Rather than risk any interruption of the *ravitaillement*, for which, while loath to own any obligation to America, the Germans have always been grateful, since it has had the effect of keeping the population calm, the authorities never pressed the point other than with the Burgomasters of the Communes. Finally, however, the military party, always brutal, and with an astounding ignorance of public opinion and of moral sentiment, determined to put these idle men to work.

In August, von Hindenburg was appointed to the supreme command. He is said to have criticised von Bissing's policy as too mild; there was a quarrel; von Bissing went to Berlin to protest; threatened to resign, but did not. He returned, and a German official here said that Belgium would now be subjected to a more terrible régime, would learn what war was. The prophecy has been vindicated.

The deportations began in October in the *Étape*, at Ghent and at Bruges. The policy spread; the rich industrial districts of Hainaut, the mines and steelworks about Charleroi were next attacked; now they are seizing men in Brabant, even in Brussels, despite some indications and even predictions of the civil authorities that the policy was about to be abandoned.

During the last fortnight men have been impressed here in Brussels, but these seizures here are made evidently with much greater care than in the provinces, with more regard for the appearances. There was no public announcement of the intention to deport, but suddenly about ten days ago, certain men in town, whose names are on the list of *chomeurs*, received summons, notifying them to report at one of the railway stations on a given day; penalties were fixed for failure to respond to the summons and there was printed on the card an offer of employment by the German Government either in Germany or Belgium. On the first day, out of about 1,500 men ordered to present themselves at the Gare du Midi, about 750 responded. These were examined by German physicians and 300 were taken. There was no disorder, a large force of mounted Uhlans keeping back the crowds and barring access to the station to all but those who had

been summoned to appear. The Commission for Relief in Belgium had secured permission to give each deported man a loaf of bread and some of the communes provided warm clothing for those who had none and in addition a small financial allowance. As by one of the ironies of life the winter has been more excessively cold than Belgium has ever known it and while many of those who presented themselves were adequately protected against the cold, many of them were without overcoats. The men shivering from cold and fear, the parting from weeping wives and children, the barriers of brutal Uhlans, all this made the scene a pitiable and distressing one.

It was understood that the seizures would continue here in Brussels, but on Thursday last, a bitter cold day, those that had been convoked were sent home without examination. It is supposed that the severe weather has moved the Germans to postpone the deportations.

The rage, the terror, and the despair excited by this measure all over Belgium were beyond anything we had witnessed since the day the Germans poured into Brussels. The delegates of the Commission for Relief in Belgium, returning to Brussels, told the most distressing stories of the scenes of cruelty and sorrow attending the seizures. And daily, hourly almost, since that time, appalling stories have been related by Belgians coming to the Legation. It is impossible for us to verify them, first because it is necessary for us to exercise all possible tact in dealing with the subject at all, and, secondly, because there is no means of communication between the Occupations Gebiet and the Etappen Gebiet. Transportation everywhere in Belgium is difficult, the vicinal railways scarcely operating any more because of the lack of oil, while all the horses have been taken. The people who are forced to go from one village to another must do so on foot, or in vans drawn by the few miserable horses that are left. The wagons of the breweries, the one institution that the Germans have scrupulously respected, are hauled by oxen.

The well-known tendency of sensational reports to exaggerate themselves, especially in time of war, and in a situation like that existing here, with no newspapers to serve as a daily clearing house for all the rumors that are as avidly believed as they are eagerly repeated, should of course be considered, but even if a modicum of all that is told is true, there still remains enough to stamp this deed as one of the foulest that history records.

I am constantly in receipt of reports from all over Belgium that tend to bear out the stories one constantly hears of brutality and cruelty. A number of men sent back to Mons are said to be in a dying condition, many of them tubercular. At Malines and at Antwerp returned men have died, their friends asserting that they have been victims of neglect and cruelty, of cold, of exposure, of hunger.

I have had requests from the Burgomasters of ten communes from La Louvière, asking that permission be obtained to send to the deported men in Germany packages of food similar to those that are

being sent to prisoners of war. Thus far the German Authorities have refused to permit this except in special instances, and returning Belgians claim that even when such packages are received they are used by the camp authorities only as another means of coercing them to sign the agreements to work.

It is said that in spite of the liberal salary promised those who would sign voluntarily no money has as yet been received in Belgium from workmen in Germany.

One interesting result of the deportations remains to be noted, a result that once more places in relief the German capacity for blundering, almost as great as the German capacity for cruelty. They have dealt a mortal blow to any prospect they may ever have had of being tolerated by the population of Flanders; in tearing away from nearly every humble home in the land, a husband and a father or a son and brother, they have lighted a fire of hatred that will never go out; they have brought home to every heart in the land, in a way that will impress its horror indelibly on the memory of three generations, a realization of what German methods mean, not, as with the early atrocities in the heat of passion and the first lust of war, but by one of these deeds that makes one despair of the future of the human race, a deed coldly planned, studiously matured, and deliberately and systematically executed, a deed so cruel that German soldiers are said to have wept in its execution, and so monstrous that even German officers are now said to be ashamed.

I have, etc.,

BRAND WHITLOCK.

[Inclosure.]

REPORT ON THE REQUISITION OF BELGIAN WORKMEN FROM MALINES.

DEAR SIR:

I have the honor to submit herewith a report on the requisition of Belgian workmen from Malines, which I witnessed in accordance with your instructions:

On the afternoon of Jan. 4th, in company with Baron von der Lancken, Legationsrat Kaempf, and an officer of the General Gov. of Occupation, I went to Malines to witness the requisition of men to be deported to Germany. The men who were to be examined came from the outlying districts of Malines and not from the city proper, since the latter had already paid its toll of about 600 men two weeks previous. As the actual process of requisitioning is one that at present takes three days from the time of the first convocation of all adult males to the final deportation of the selected unemployed, I was able to witness only a small portion of the procedure. However, the following is a record of the steps that had been taken up to the time of my arrival as told me by the underofficer in charge of the final selection.

The entire adult male population (between 17-60) of the district to be picked over is ordered by public notices to report at specified

times, according to the age of the individual, at a central station. Each man must bear his identification card and is allowed to bring with him any documentary evidence which can go to prove that he is actually employed or unfit for hard labour. These documents are submitted to the officer in charge. After he has examined them he stamps the identification card with one of two stamps. The first indicates that the man is actually employed to the satisfaction of the officer (i.e., is a lawyer, doctor, or professional with an accredited practice, or a large property owner or business man), or that he is obviously seriously ill; the second is reserved for all others. Those who have fallen under the latter category must report again the next day; those under the first are exempt, and are no longer molested. On the second day the men who have to report again are given two choices, that of voluntarily signing contracts of work in Germany or of working in Belgium for German interests (i.e., on railroads, loading and unloading cars, etc., etc.). If they refuse either of these offers they are marked for forced deportation to Germany on the following day and are given the necessary orders as regards reporting, bringing of heavy extra clothing, etc.

The procedure on the third day was that which I witnessed. The men had been ordered to report at a building about 400 yards from the railroad tracks. Equipped with a large bundle containing extra clothing and a new pair of "Sabots" each man was waiting his turn to be given a final examination. The building was surrounded by about 50 soldiers (infantrymen) and the women and children were kept at a safe distance by mounted Uhlans with steel-headed spears, perhaps twenty in number. There were no signs of active disorder, but as the crowd outside was continually pressing forward the Uhlans had to use forceful tactics to keep it in place. However, I saw no act of violence, but only threatening motions.

The men entered the building in single file and passed between examining officers. To them they were allowed to make their final appeal. They were still in possession of the papers they had been allowed to submit on the first day, but these were only cursorily examined. I watched two men pass and heard their appeal. The first had a sick wife (Medical certificate) was a pensioned arsenal worker who during the war had been occupied in cultivating a small piece of land (Burgomaster's certificate) and who had a son who had been a voluntary workman in Germany for two years. He was his wife's only support (i.e., His pension was). His case was considered for a moment only and then he was passed on to go to Germany. The second was also a pensioned arsenal worker but he had six small children (The oldest 12 years) and had a piece of land about twelve hectare in size which he had been cultivating. The officer examined his case and then turned to me with the remark, "Of course this man goes free." He was then led to a side door where his identification card was stamped and he was allowed to leave.

At this point I began to question the officer in charge and the officials who had accompanied me, with regard to several general

points on which I was not clear. I asked how the wife of the first man was to be supported in his absence since she would naturally not be paid the pension which he had received from the Belgian Gov. The answer was that the German Gov. would take care of her, and that anyway she could support herself on the earnings that her husband sent back from Germany. I asked what those could amount to. The answer assured me that if he was a good worker and saving, these might be as great as 120 Marks per month. I then asked what his pay would be if, as he had previously done, he refused to sign a voluntary contract. No definite answer. In fact I was told that I could get information of that sort from Berlin. I then asked whether any money had as yet been returned by workers in Germany, and was told that I could get those facts in Brussels. (As yet I have had no evidence that any money has been sent back.) I made a final effort to secure some information about the actual procedure when men once arrived in Germany, and what differences were made between those who had signed contracts, and those who hadn't, but was met with the response that they had but small knowledge of what happened to the men after they were deported.

I then turned my attention to the second man and asked why he had been let off. All the officials agreed that it was because he had six small children dependent on him. I at once asked if according to what I had just been told it would not be better for him to be deported, since he could earn so much more money in Germany. Slight hesitation, and then the officials who accompanied me agreed that it would have been better for him to have gone to Germany, but that the officer in charge was unusually kind-hearted and had on that account let him off. This latter officer made no comment.

I now went on to the rest of the examination. Every man who claimed to be sick could be examined by two doctors. Just previous to the moment that I entered one man had been freed because of tuberculosis and another had been put on the deported list because instead of the catarrh from which he was supposed to be suffering he had turned out to be violently intoxicated. But very few chose to be examined by the doctors and of those examined (about 40 in all I believe) only a few had been freed.

As the men who were finally selected passed out of a side door of the building to be led to the waiting trains, they were relieved of all papers and their names were put in a book which was to be sent to the prison camp for which they were destined. I was told that those papers were to be carefully kept for future references in case a petition for repatriation was made with regard to any one of the men.

From the building to the train the men were led in groups of about thirty under heavy military escort. Standing beside the cars was a military field kitchen from which the men were fed a plate apiece of heavy barley & vegetable soup, in which was discernible very small pieces of meat. I tasted this soup, and it was good. On their trip to Germany the men were to be fed a similar ration every eight hours, provided the train in which they were ran according to

schedule. The cars were the ordinary third-class cars and, at the time of my visit, were being heated.

About 300 men were taken in all. There were two interpreters in constant circulation among them, whose chief functions were to present coming events in a rosy light and to try to persuade men to sign contracts of work. I was told that if a man at any time changed his mind he could always sign a voluntary contract. This choice was reserved him at all stages of the trip to Germany and also at any moment during his confinement to the prison camp. While I was present only one took the alternative. His courage failed as he was about to enter the train, and he elected to stay in Belgium and work wherever the Germans assigned him.

The above statements are merely a literal presentation of the facts of one part of a small requisition. From reports received through other sources it is quite evident that this requisition was very exceptionally well conducted. Not a single man bearing a card from the C. R. B. was taken and, on the whole, there were very few complaints and protests. Whether the orderliness and thoroughness were especially provided for this occasion, or whether the policy of deportations is to be actually limited to the unemployed, remains to be seen. At least it would seem as though the seven second examination per man were to be abolished for a more thorough procedure. . . .

Minister Whitlock to the Secretary of State.

AMERICAN LEGATION,
Brussels, January 17, 1917.

SIR: With reference to my telegram of the 15th instant, No. 32,¹ regarding the deportation of Belgians from the city of Brussels, I have the honor to state that summonses to appear for examination are now being sent out by the German authorities, directing the men to appear on Saturday, the 20th instant, at the Gare du Midi.

The method of summoning the men is different from that employed hitherto, and indicates greater care in preparation. No announcements have been posted on the city walls; persons whom it is desired to examine are summoned individually by post card, and are at the same time advised as to the punishment to which they will expose themselves if they do not reply to the summons, the preparatory measures which they should take in view of a possible deportation, and the bureau to which they should apply in the event of their voluntary inscription for work in lieu of deportation.

A copy and translation of this post card of notification are inclosed herewith.

I have, etc.,

BRAND WHITLOCK.

¹ Not printed.

[Inclosure—Translation.]

BRUSSELS [date of the postmark].

IMPERIAL GERMAN COMMANDANTUR:

You are summoned to present yourself on ——— at 8 a. m. at the Southern Railway Station (entrance from the Rue de France).

In the event that you should not obey the present summons, you would be deported at once by force; furthermore, you would be liable to a sentence of a maximum imprisonment for three months, or of a fine not exceeding 1,000 Marks.

As it is possible that you may be sent to a place of work and that in such case you would not have further occasion to get into communication with the members of your family, you are advised to provide yourself with a blanket, with winter clothing, linen, and good boots.

Whoever signs a contract at the "Bureau de l'Industrie," Rue Marie Thérèse, 64, is offered work either in Germany or in Belgium on very advantageous conditions, and need not present himself at the station.

[SEAL.]

COUNT VON SODEN,
Colonel and Commandant.

The present summons is to be exhibited.

PART XXII.

PEACE OVERTURES OF THE CENTRAL POWERS AND
REPLY OF ENTENTE POWERS.

*Chargé Grew to the Secretary of State.*¹

[Telegram.]

AMERICAN EMBASSY,
Berlin, December 12, 1916.

Following is the official French translation of the peace communication handed to me by the Chancellor this morning, which I am now able to telegraph *en clair*, as the exact text has now been published.

Berlin, December 12, 1916.

"MR. CHARGÉ D'AFFAIRES: The most formidable war known to history has been ravaging for two and a half years a great part of the world. That catastrophe, that the bonds of a common civilization

¹ Identic notes were received from the Governments of Austria-Hungary, Turkey, and Bulgaria.

more than a thousand years old could not stop, strikes mankind in its most precious patrimony; it threatens to bury under its ruins the moral and physical progress on which Europe prided itself at the dawn of the twentieth century. In that strife Germany and her allies—Austria-Hungary, Bulgaria, and Turkey—have given proof of their indestructible strength in winning considerable successes at war. Their unshakable lines resist ceaseless attacks of their enemies' arms. The recent diversion in the Balkans was speedily and victoriously thwarted. The latest events have demonstrated that a continuation of the war cannot break their resisting power. The general situation much rather justifies their hope of fresh successes. It was for the defense of their existence and freedom of their national development that the four Allied Powers were constrained to take up arms. The exploits of their armies have brought no change therein. Not for an instant have they swerved from the conviction that the respect of the rights of the other nations is not in any degree incompatible with their own rights and legitimate interests. They do not seek to crush or annihilate their adversaries. Conscious of their military and economic strength and ready to carry on to the end, if they must, the struggle that is forced upon them, but animated at the same time by the desire to stem the flood of blood and to bring the horrors of war to an end, the four Allied Powers propose to enter even now into peace negotiations. They feel sure that the propositions which they would bring forward and which would aim to assure the existence, honor, and free development of their peoples, would be such as to serve as a basis for the restoration of a lasting peace.

"If notwithstanding this offer of peace and conciliation the struggle should continue, the four Allied Powers are resolved to carry it on to a victorious end, while solemnly disclaiming any responsibility before mankind and history.

"The Imperial Government has the honor to ask through your obliging medium the Government of the United States to be pleased to transmit the present communication to the Government of the French Republic, to the Royal Government of Great Britain, to the Imperial Government of Japan, to the Royal Government of Roumania, to the Imperial Government of Russia, and to the Royal Government of Servia.

"I take this opportunity to renew to you, Mr. Chargé d'Affaires, the assurance of my high consideration.

"VON BETHMANN HOLLWEG.

"To Mr. JOSEPH CLARK GREW,

"Chargé d'Affaires of the

"United States of America."

GREW.

The Secretary of State to Ambassador W. H. Page.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 16, 1916.

The American missions at Berlin, Vienna, Constantinople, and Sofia have received from the Governments of Germany, Austria-Hungary, Turkey, and Bulgaria, respectively, identic notes for transmission to the Entente Powers. The note from the German Government, which has been received in the English language, reads as follows:²

The original texts of these notes will be forwarded as soon as received by this Government.

In bringing this note to the attention of the foreign office, as requested, intimate quite explicitly that, while you are submitting it on behalf of the respective Governments only and in no sense as the representative of the Government of the United States, this Government is deeply interested in the result of these unexpected overtures, would deeply appreciate a confidential intimation of the character and purpose of the response that will be made, and will itself presently have certain very earnest representations to make on behalf of the manifest interests of neutral nations and of humanity itself to which it will ask that very serious consideration be given. It does not make these representations now because it does not wish to connect them with the proposed overtures or have them construed in any way as an attempt at mediation, notwithstanding the fact that these overtures afford an admirable occasion for their consideration. The Government of the United States had it in mind to make them entirely on its own initiative and before it had any knowledge of the present attitude or suggestions of the Central Governments. It will make the same representations to the Governments of the Central Powers and wishes to make them almost immediately, if necessary, but not as associated with the overtures of either group of belligerents. The present overtures have created an unexpected opportunity for looking at the world's case as a whole, but the United States would have itself created the occasion had it fallen out otherwise.

LANSING.

¹ Same to American Embassies at Paris, Petrograd, Rome, and Tokio; American legations at Bucharest and Belgrade; and American Consulate at Havre.

² For text, see *supra*, telegram from Chargé Grew, p. 274.

Ambassador Sharp to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Paris, December 29, 1916.

Mr. Sharp reports receipt from French Foreign Office of reply of Allied Governments to proposal of Central Powers transmitted in Department's telegram of December 16, 1916.

Translation of reply of Allied Governments is as follows:

"The Allied Governments of Belgium, France, Great Britain, Italy, Japan, Montenegro, Portugal, Roumania, Russia, and Servia, unitedly in the defense of the liberty of nations and faithful to the engagement they have taken not to lay down arms separately, have resolved to answer collectively the so-called proposals of peace which have been addressed them on behalf of the enemy Governments, through the intermediary of the United States, of Spain, of Switzerland, and of the Netherlands.

"The Allied Powers are constrained to preface their answer by protesting strongly against the two essential assertions in the note of the enemy powers, which attempts to throw upon the Allies the responsibility of the war and which proclaims the victory of the Central Powers.

"The Allies cannot admit an assertion which is doubly inexact and which is sufficient to render barren any attempt at negotiation.

"For thirty months the Allied Powers have suffered a war which they had tried by every means to avoid. They have demonstrated their attachment to peace by their acts. This attachment is as strong to-day as it was in 1914; after the violation of her engagements, it is not upon the word of Germany that peace, broken by her, can be based.

"A suggestion without any conditions for initiating negotiations is not an offer of peace. The so-called proposal, devoid of substance and of precision, circulated abroad by the Imperial Government, appears less as an offer of peace than as a maneuver of war.

"It is based upon a systematic disregard of the nature of the struggle of the past, present, and future.

"As to the past, the German note ignores all the facts, dates, and figures which prove that the war was desired, incited, and declared by Germany and Austria-Hungary. At The Hague it was the German delegate who rejected all suggestion of disarmament. In July, 1914, it was Austria-Hungary who, after having addressed to Servia an ultimatum, of which there exists no precedent, declared war on her despite the satisfaction immediately obtained. The Central Empires thereafter repulsed every attempt made by the Entente to bring about a pacific solution to what was a local conflict. England's offer of a conference, the French proposal of an international commission, the request for arbitration addressed by the Emperor

of Russia to the Emperor of Germany, the understanding reached between Russia and Austria-Hungary on the eve of hostilities; all these endeavors were left by Germany without answer and without issue. Belgium was invaded by an empire which had guaranteed her neutrality and which itself unhesitatingly proclaimed that treaties are 'mere scraps of paper' and that 'necessity knows no law.'

"As regards the present, the so-styled offers of Germany are based upon a 'war map' which covers Europe alone; which expresses only the exterior and transitory aspect of the situation, but not the real strength of the adversaries. To conclude a peace based on the above would be to the sole advantage of the aggressors, who, having believed they could attain their object in two months perceive after two years that it will never be attained.

"For the future, the ruins caused by the German declaration of war, the innumerable aggressions committed by Germany and her allies against the belligerents and against neutrals demand penalties, reparations, and guarantees; Germany eludes one and all.

"In reality, the overture made by the Central Powers is but an attempt calculated to work upon the evolution of the war and of finally imposing a German peace.

"It has for its object the troubling of opinion in the Allied countries; this opinion, in spite of all the sacrifices endured, has already replied with an admirable firmness and has denounced the hollowness of the enemy declaration.

"It desires to strengthen public opinion in Germany and amongst her allies already so gravely shaken by their losses, fatigued by the economic encirclement, and crushed by the supreme effort which is exacted from their peoples.

"It seeks to deceive, to intimidate public opinion of neutral countries long ago satisfied as to the original responsibilities, enlightened as to the present responsibilities, and too farseeing to favor the designs of Germany by abandoning the defense of human liberties.

"It strives finally to justify new crimes in advance before the eyes of the world; submarine warfare, deportations, forced labor, and enlistment of nationals against their own country, violation of neutrality.

"It is with a full realization of the gravity, but also of the necessities of this hour that the Allied Governments closely united and in perfect communion with their peoples refuse to entertain a proposal without sincerity and without import.

"They affirm, once again, that no peace is possible as long as the reparation of violated rights and liberties, the acknowledgment of the principle of nationalities and of the free existence of small states shall not be assured; as long as there is no assurance of a settlement to suppress definitely the causes which for so long a time have menaced nations and to give the only efficacious guarantees for the security of the world.

"The Allied Powers, in termination, are constrained to expose the

following considerations which bring into relief the particular situation in which Belgium finds herself after two and a half years of war. By virtue of international treaties signed by five of the great powers of Europe, amongst which figured Germany, Belgium profited by a special statute which rendered her territory inviolate, and placed the country itself under the guarantee of these powers, sheltered from European conflicts. Nevertheless Belgium, despite these treaties, was the first to suffer the aggression of Germany. It is why the Belgian Government deems it necessary to specify the purpose which Belgium has never ceased to pursue in fighting, beside the powers of the Entente for the cause of right and justice.

"Belgium has always scrupulously observed the duties imposed upon her by neutrality. She took arms to defend her independence and her neutrality violated by Germany and to remain faithful to her international obligations. On the fourth of August at the *Reichstag* the Chancellor acknowledged that this aggression constituted an injustice contrary to the right of nations and agreed in the name of Germany to repair it.

"After two and a half years this injustice has been cruelly aggravated by the practice of war and occupation which have exhausted the resources of the country, ruined its industries, devastated its cities and villages, multiplied the massacres, the executions, and imprisonments. And at the moment that Germany speaks to the world of peace and humanity she deports and reduces to servitude. Belgium before the war had no other wish than to live in concord with all her neighbors. Her King and her Government have only one purpose: the reestablishment of peace and of right. But they will only consider a peace which Belgian citizens by the thousand (demand?) assures to their country legitimate reparation, guarantees and security for the future."

SHARP.

The Secretary of State to Ambassador Gerard.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 2, 1917.

This Government has received the following translation of the note of the Entente Powers replying to the overtures of the Central Powers. Please deliver this note to the Government to which you are accredited, with the statement that the French text is being forwarded directly to you by the American Embassy, Paris, and that it will be delivered upon receipt:²

LANSING.

¹ Same to American Embassies at Vienna and Constantinople and American Legation at Sofia.

² For text, see *supra*, telegram from Ambassador Sharp, p. 277.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, January 12, 1917.

Mr. Gerard reports receipt of note from German Foreign Office as follows:

“Through the medium of the Government of the United States, the Royal Government of Spain, and the Swiss Federal Government, the Imperial and Royal Government has received its adversaries’ reply to the note of December 12 in which Germany, in accord with its allies, proposed an early opening of peace negotiations. The adversaries reject the proposal under pretense that it is insincere and meaningless. The form in which they put their refusal excludes any idea of a reply.

“The Imperial Government nevertheless wishes to make known to the Governments of the neutral powers its view of the situation. The Central Powers have no occasion to revert to the discussions as to the origin of the world war. It is for history to pass judgment on the monstrous responsibility for the conflict. Its verdict will not any more leave out of consideration the encircling policy of Great Britain, the revengeful policy of France, the yearning of Russia for Constantinople than the provocation from Servia, the Serajevo assassination, and the general Russian mobilization which meant war with Germany.

“Germany and its allies having been compelled to take up arms in the defense of their freedom and existence consider they have accomplished that end of their efforts. On the other hand, the enemy powers have drifted farther and farther away from the achievement of their plans, which, according to the statements of their responsible statesmen, aimed, among other things, at the conquest of Alsace-Lorraine and of several Prussian provinces, the humiliation and curtailment of the Austro-Hungarian Monarchy, the partition of Turkey, and the mutilation of Bulgaria. Such demands give at least a strange sound to the pretension of sanction, repatriation, and guaranty in the mouths of our adversaries.

“Our adversaries call the peace proposal of the four allied powers a war maneuver. Germany and its allies must enter the most emphatic protest against so false an interpretation of the motives for their step which they have openly disclosed. They were convinced that a just peace, acceptable to all the belligerents, is feasible; that it can be attained through an immediate oral exchange of views and that therefore further bloodshed is indefensible. The fact that they have unreservedly shown their readiness to make known their peace proposals as soon as the negotiations were opened disposes of any doubt as to their sincerity. The adversaries who were given the opportunity to examine the value of that offer neither attempted

to do so nor offered counter proposals. Instead, they declare any peace to be impossible as long as they are not assured reparation for invaded rights and freedoms, acknowledgment of the principle of nationalities and the free existence of small States. The sincerity which our adversaries will not acknowledge in the four allied powers' proposal can hardly be conceded to those demands by the world when it recalls the fate of the Irish people, the obliteration of the freedom and independence of the South African Republics, the conquest of North Africa by Great Britain, France, and Italy, the oppression of foreign nationalities by Russia, and, lastly, the act unprecedented in history which is constituted by the violence brought to bear on Greece.

"Likewise it ill becomes those powers to complain of alleged violations of international law by the four allied powers, as they themselves have since the beginning of the war trampled the law under foot and torn the treaties upon which the law rests. In the early weeks following the opening of hostilities Great Britain disowned its adhesion to the Declaration of London and yet the text had been acknowledged by its own delegates to be conformable to the law of nations, and, as such, valid. In the course of the war it also violated in the most grave manner the Declaration of Paris, so that its arbitrary measures have created in the conduct of maritime warfare the state of illegality that now exists. The attempt to overcome Germany by starvation and the pressure exercised on the neutrals in the interest of Great Britain are at equally flagrant variance with the rules of international laws and the laws of humanity. Another infringement of the law of nations that cannot be reconciled with the principles of civilization is the use of colored troops as also is the transfer of war in violation of existing treaties the effect of which cannot but destroy the prestige of the white race in those countries. The inhuman treatment of prisoners, especially in Africa and Russia, the deportation of the civilian population of East Prussia, of Alsace-Lorraine, Galicia, and Bukowina are as many further proofs of the manner in which our adversaries understand the respect of law and civilization.

"Our adversaries close their note of December 30 with a statement laying stress on the peculiar situation in Belgium. The Imperial Government is unable to admit that the Belgian Government always observed the duties imposed upon it by its neutrality toward Great Britain. Belgium applied in a military sense to that power and to France, thus violating the spirit of the treaties intended to guarantee its independence and neutrality. Twice did the Imperial Government declare to the Belgian Government that it was not coming to Belgium as an enemy, and begged it to spare its country the horrors of war. It offered in that case to guarantee in their entirety the territory and independence of the kingdom of Belgium and to make good all damage that the passing of German troops might cause. It is known that in 1887 the British Royal Government had resolved not to oppose a claim to the right of way in Belgium under those

conditions. The Belgian Government refused the reiterated offer of the Imperial Government. The responsibility for the fate that befell Belgium rests upon its Government and the powers which drew it into that attitude. The Imperial Government repeatedly repelled as groundless the charges brought against the conduct of the war in Belgium and against the measures there taken in the interest of military safety. It again enters an energetic protest against those calumnies.

"Germany and its allies have made a genuine attempt with a view to bringing the war to an end and opening the way for an understanding among the belligerents. The Imperial Government lays down as a fact that the question as to whether or not that way would be entered, leading to peace, solely depended on the decision of its adversary. The enemy Governments declined to do so, upon them rests the whole responsibility for further bloodshed. The four allied powers in their calm conviction that they are in the right will carry on the struggle until they win a peace that will guarantee to their peoples honor, existence, and free development, and at the same time insure for all the States in the European Continent the beneficent possibility of coöperating in mutual esteem and on a perfectly equal footing toward the solution of the great problems of civilization."

GERARD.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, January 12, 1917.

Mr. Penfield reports receipt of a note from the Austro-Hungarian Minister of Foreign Affairs as follows:

"The Imperial and Royal Government had on the fifth instant the honor to receive through the obliging medium of the Government of the United States of America the reply of the States at war with it to its note of December twelfth, in which the Imperial and Royal Government in concert with its allies declared its readiness to enter upon peace negotiations. Jointly with the allied powers the Imperial and Royal Government did not fail to subject the reply of the enemy Governments to a thorough examination which brought the following result.

"Under pretense that the proposal of the four allied powers lacked sincerity and importance the enemy Governments decline to accede to the proposal. The form they gave to their communication makes it impossible to return an answer addressed to them. The Imperial

and Royal Government nevertheless wishes to disclose its views to the neutral powers.

"The reply of the enemy Governments shuns every discussion of the means to bring the war to an end. It confines itself to reverting to the facts anterior to the war, to the alleged strength of their military situation, and to the motives for the peace proposal as supposed by them.

"The Imperial and Royal Government has no present intention to launch into a renewed discussion of the antecedents of the war, for it is convinced that a straightforward, impartial judgment has already and irrefutably established, in the eye of all mankind, on which side lies the responsibility for the war. With particular reference to Austria-Hungary's ultimatum to Servia, the Monarchy has given in the years that preceded that step sufficient evidence of her forbearance in the face of the tendencies and hostile and aggressive doings of Servia which were growing worse and worse up to the time when the infamous Sarajevo assassination put any further leniency out of the question.

"Likewise any discussion of the point of determining which side the advantage lay in regard to the military situation seems idle, as the answer to that question may unhesitatingly be left with public opinion throughout the world. Besides a comparison of the ends sought by the two groups in the present conflagration implies the solution of that question. While Austria-Hungary and its allies from the beginning of the war, never aimed at territorial conquest but rather at their defense, the contrary stands true for the enemy States which, to mention but a few of the objects they harbor in this war, crave the annihilation and spoliation of the Austro-Hungarian Monarchy, the conquest of Alsace-Lorraine as also the partition of Turkey and the curtailment of Bulgaria. The four Allied Powers therefore may consider they have achieved the purely defensive ends they seek in that war while their adversaries are more and more removed from the accomplishment of their designs.

"If the enemy Governments term 'strategem' the proposal of the four Allied Powers which is said to lack sincerity and importance, it is clear that we have here but an absolutely arbitrary assertion of a biased judgment incapable of proof as long as the peace negotiations have not begun and consequently our peace terms are not known.

"The Imperial and Royal Government and the Governments of the Allied Powers acted in perfect sincerity and good faith when they proposed peace negotiations for they had to reckon with the contingency of their explicit proposal to make their terms known immediately upon the opening of the negotiations being accepted. On the contrary the adversaries were those who, without offering any counter proposal, declined to acquaint themselves with the contents of the proposal of the four Allied Powers. If the adversaries demand above all the restoration of invaded rights and liberties, the recognition of the principle of nationalities and of the free exist-

ence of small States, it will suffice to call to mind the tragic fate of the Irish and Finnish peoples, the obliteration of the freedom and independence of the Boer Republics, the subjection of North Africa by Great Britain, France, and Italy and, lastly, the violence brought to bear on Greece for which there is no precedent in history.

"The Imperial and Royal Government lays down as a fact that in concert with the Allied Powers it had declared its readiness to bring the war to an end by means of an oral exchange of views with the enemy Governments and that on the decision of the adversaries alone depended the opening of the way to peace. Before God and mankind it disclaims responsibility for a continuance of the war. Calm, strong, and confident of their right, Austro-Hungary and its allies will carry on the struggle until they gain a peace that will secure the existence, honor, and free development of the peoples and at the same time enable the States of Europe to coöperate in the grand work of civilization on the basis of wholly equal rights.

"The Imperial and Royal Government has the honor to apply for Your Excellency's obliging good offices with a request that you will kindly forward the foregoing to the Government of the United States of America.

"Be pleased to accept etcetera.

"[Signed.] CZERNIN."
PENFIELD.

PART XXIII.

SUGGESTIONS CONCERNING THE WAR MADE BY PRESIDENT WILSON DECEMBER 18, 1916, AND REPLIES OF BELLIGERENTS AND NEUTRALS.

The Secretary of State to Ambassador W. H. Page.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 18, 1916.

The President directs me to send you the following communication to be presented immediately to the Minister of Foreign Affairs of the Government to which you are accredited:

"The President of the United States has instructed me to suggest to His Majesty's Government a course of action with regard to the present war which he hopes that the British Government will take

¹ Same, *mutatis mutandis*, to the American Diplomatic Representatives accredited to the Governments of France, Italy, Japan, Russia, Belgium, Montenegro, Portugal, Roumania, and Servia, and to all neutral Governments for their information.

under consideration as suggested in the most friendly spirit and as coming not only from a friend but also as coming from the representative of a neutral nation whose interests have been most seriously affected by the war and whose concern for its early conclusion arises out of a manifest necessity to determine how best to safeguard those interests if the war is to continue.

"The suggestion which I am instructed to make the President has long had it in mind to offer. He is somewhat embarrassed to offer it at this particular time because it may now seem to have been prompted by the recent overtures of the Central Powers. It is in fact in no way associated with them in its origin and the President would have delayed offering it until those overtures had been answered but for the fact that it also concerns the question of peace and may best be considered in connection with other proposals which have the same end in view. The President can only beg that his suggestion be considered entirely on its own merits and as if it had been made in other circumstances.

"The President suggests that an early occasion be sought to call out from all the nations now at war such an avowal of their respective views as to the terms upon which the war might be concluded and the arrangements which would be deemed satisfactory as a guaranty against its renewal or the kindling of any similar conflict in the future as would make it possible frankly to compare them. He is indifferent as to the means taken to accomplish this. He would be happy himself to serve or even to take the initiative in its accomplishment in any way that might prove acceptable, but he has no desire to determine the method or the instrumentality. One way will be as acceptable to him as another if only the great object he has in mind be attained.

"He takes the liberty of calling attention to the fact that the objects which the statesmen of the belligerents on both sides have in mind in this war are virtually the same, as stated in general terms to their own people and to the world. Each side desires to make the rights and privileges of weak peoples and small States as secure against aggression or denial in the future as the rights and privileges of the great and powerful States now at war. Each wishes itself to be made secure in the future, along with all other nations and peoples, against the recurrence of wars like this and against aggression of selfish interference of any kind. Each would be jealous of the formation of any more rival leagues to preserve an uncertain balance of power amidst multiplying suspicions; but each is ready to consider the formation of a league of nations to insure peace and justice throughout the world. Before that final step can be taken, however, each deems it necessary first to settle the issues of the present war upon terms which will certainly safeguard the independence, the territorial integrity, and the political and commercial freedom of the nations involved.

"In the measures to be taken to secure the future peace of the world the people and Government of the United States are as vitally

and directly interested as the Governments now at war. Their interest, moreover, in the means to be adopted to relieve the smaller and weaker peoples of the world of the peril of wrong and violence is as quick and ardent as that of any other people or Government. They stand ready, and even eager, to coöperate in the accomplishment of these ends, when the war is over, with every influence and resource at their command. But the war must first be concluded. The terms upon which it is to be concluded they are not at liberty to suggest; but the President does feel that it is his right and his duty to point out their intimate interest in its conclusion, lest it should presently be too late to accomplish the greater things which lie beyond its conclusion, lest the situation of neutral nations, now exceedingly hard to endure, be rendered altogether intolerable, and lest, more than all, an injury be done civilization itself which can never be atoned for or repaired.

"The President therefore feels altogether justified in suggesting an immediate opportunity for a comparison of views as to the terms which must precede those ultimate arrangements for the peace of the world, which all desire and in which the neutral nations, as well as those at war, are ready to play their full responsible part. If the contest must continue to proceed towards undefined ends by slow attrition until the one group of belligerents or the other is exhausted, if million after million of human lives must continue to be offered up until on the one side or the other there are no more to offer, if resentments must be kindled that can never cool and despairs engendered from which there can be no recovery, hopes of peace and of the willing concert of free peoples will be rendered vain and idle.

"The life of the entire world has been profoundly affected. Every part of the great family of mankind has felt the burden and terror of this unprecedented contest of arms. No nation in the civilized world can be said in truth to stand outside its influence or to be safe against its disturbing effects. And yet the concrete objects for which it is being waged have never been definitively stated.

"The leaders of the several belligerents have, as has been said, stated those objects in general terms. But, stated in general terms, they seem the same on both sides. Never yet have the authoritative spokesmen of either side avowed the precise objects which would, if attained, satisfy them and their people that the war had been fought out. The world has been left to conjecture what definitive results, what actual exchange of guarantees, what political or territorial changes or readjustments, what stage of military success even would bring the war to an end.

"It may be that peace is nearer than we know; that the terms which the belligerents on the one side and on the other would deem it necessary to insist upon are not so irreconcilable as some have feared; that an interchange of views would clear the way at least for conference and make the permanent concord of the nations a hope of the immediate future, a concert of nations immediately practicable.

"The President is not proposing peace; he is not even offering

mediation. He is merely proposing that soundings be taken in order that we may learn, the neutral nations with the belligerent, how near the haven of peace may be for which all mankind longs with an intense and increasing longing. He believes that the spirit in which he speaks and the objects which he seeks will be understood by all concerned, and he confidently hopes for a response which will bring a new light into the affairs of the world."

LANSING.

*The Secretary of State to Ambassador Gerard.*¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 18, 1916.

The President directs me to send you the following communication to be presented immediately to the Minister of Foreign Affairs of the Government to which you are accredited:

"The President of the United States has instructed me to suggest to the Imperial German Government a course of action with regard to the present war which he hopes that the Imperial Government will take under consideration as suggested in the most friendly spirit and as coming not only from a friend but also as coming from the representative of a neutral nation whose interests have been most seriously affected by the war and whose concern for its early conclusion arises out of a manifest necessity to determine how best to safeguard those interests if the war is to continue.

"The suggestion which I am instructed to make the President has long had it in mind to offer. He is somewhat embarrassed to offer it at this particular time because it may now seem to have been prompted by a desire to play a part in connection with the recent overtures of the Central Powers. It has in fact been in no way suggested by them in its origin and the President would have delayed offering it until those overtures had been independently answered but for the fact that it also concerns the question of peace and may best be considered in connection with other proposals which have the same end in view. The President can only beg that his suggestion be considered entirely on its own merits and as if it had been made in other circumstances.

"The President suggests that an early occasion be sought to call out from all the nations now at war such an avowal of their respective views as to the terms upon which the war might be concluded and the arrangements which would be deemed satisfactory as a guaranty against its renewal or the kindling of any similar conflict in the future as would make it possible frankly to compare them. He is

¹ Same, *mutatis mutandis*, to the American Diplomatic Representatives accredited to the Governments of Austro-Hungary, Turkey, and Bulgaria, and to all neutral Governments for their information.

indifferent as to the means taken to accomplish this. He would be happy himself to serve, or even to take the initiative in its accomplishment, in any way that might prove acceptable, but he has no desire to determine the method or the instrumentality. One way will be as acceptable to him as another if only the great object he has in mind be attained.

"He takes the liberty of calling attention to the fact that the objects which the statesmen of the belligerents on both sides have in mind in this war are virtually the same, as stated in general terms to their own people and to the world. Each side desires to make the rights and privileges of weak peoples and small states as secure against aggression or denial in the future as the rights and privileges of the great and powerful states now at war. Each wishes itself to be made secure in the future, along with all other nations and peoples, against the recurrence of wars like this, and against aggression of selfish interference of any kind. Each would be jealous of the formation of any more rival leagues to preserve an uncertain balance of power amidst multiplying suspicions; but each is ready to consider the formation of a league of nations to insure peace and justice throughout the world. Before that final step can be taken, however, each deems it necessary first to settle the issues of the present war upon terms which will certainly safeguard the independence, the territorial integrity, and the political and commercial freedom of the nations involved.

"In the measures to be taken to secure the future peace of the world the people and Government of the United States are as vitally and as directly interested as the Governments now at war. Their interest, moreover, in the means to be adopted to relieve the smaller and weaker peoples of the world of the peril of wrong and violence is as quick and ardent as that of any other people or Government. They stand ready, and even eager, to coöperate in the accomplishment of these ends, when the war is over, with every influence and resource at their command. But the war must first be concluded. The terms upon which it is to be concluded they are not at liberty to suggest; but the President does feel that it is his right and his duty to point out their intimate interest in its conclusion, lest it should presently be too late to accomplish the greater things which lie beyond its conclusion, lest the situation of neutral nations, now exceedingly hard to endure, be rendered altogether intolerable, and lest, more than all, an injury be done civilization itself which can never be atoned for or repaired.

"The President therefore feels altogether justified in suggesting an immediate opportunity for a comparison of views as to the terms which must precede those ultimate arrangements for the peace of the world, which all desire and in which the neutral nations as well as those at war are ready to play their full responsible part. If the contest must continue to proceed towards undefined ends by slow attrition until the one group of belligerents or the other is exhausted, if million after million of human lives must continue to be offered

up until on the one side or the other there are no more to offer, if resentments must be kindled that can never cool and despairs engendered from which there can be no recovery, hopes of peace and of the willing concert of free peoples will be rendered vain and idle.

The life of the entire world has been profoundly affected. Every part of the great family of mankind has felt the burden and terror of this unprecedented contest of arms. No nation in the civilized world can be said in truth to stand outside its influence or to be safe against its disturbing effects. And yet the concrete objects for which it is being waged have never been definitively stated.

"The leaders of the several belligerents have, as has been said, stated those objects in general terms. But stated in general terms, they seem the same on both sides. Never yet have the authoritative spokesmen of either side avowed the precise objects which would, if attained, satisfy them and their people that the war had been fought out. The world has been left to conjecture what definitive results, what actual exchange of guaranties, what political or territorial changes or readjustments, what stage of military success even, would bring the war to an end.

"It may be that peace is nearer than we know; that the terms which the belligerents on the one side and on the other would deem it necessary to insist upon are not so irreconcilable as some have feared; that an interchange of views would clear the way at least for conference and make the permanent concord of the nations a hope of the immediate future, a concert of nations immediately practicable.

"The President is not proposing peace; he is not even offering mediation. He is merely proposing that soundings be taken in order that we may learn, the neutral nations with the belligerent, how near the haven of peace may be for which all mankind longs with an intense and increasing longing. He believes that the spirit in which he speaks and the objects which he seeks will be understood by all concerned, and he confidently hopes for a response which will bring a new light into the affairs of the world."

LANSING.

*Ambassador Gerard to the Secretary of State.*¹

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, December 26, 1916.

Mr. Gerard reports receipt of a note from the German Foreign Office, dated December 26, 1916, as follows:

"FOREIGN OFFICE,
Berlin, December 26, 1916.

"With reference to the esteemed communication of December 21, Foreign Office No. 15118, the undersigned has the honor to reply

¹ Similar replies were received from the Governments of Austria-Hungary, Turkey, and Bulgaria.

as follows: To His Excellency the Ambassador of the United States of America, Mr. James W. Gerard.

"The Imperial Government has accepted and considered in the friendly spirit which is apparent in the communication of the President, noble initiative of the President looking to the creation of bases for the foundation of a lasting peace. The President discloses the aim which lies next to his heart and leaves the choice of the way open. A direct exchange of views appears to the Imperial Government as the most suitable way of arriving at the desired result. The Imperial Government has the honor, therefore, in the sense of its declaration of the 12th instant, which offered the hand for peace negotiations, to propose the speedy assembly, on neutral ground, of delegates of the warring States.

"It is also the view of the Imperial Government that the great work for the prevention of future wars can first be taken up only after the ending of the present conflict of exhaustion. The Imperial Government is ready, when this point has been reached, to coöperate with the United States at this sublime task.

"The undersigned, while permitting himself to have recourse to good offices of His Excellency the Ambassador in connection with the transmission of the above reply to the President of the United States, avails himself of this opportunity to renew the assurances of his highest consideration.

"ZIMMERMANN."

Consul General Murphy to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
Sofia, December 30, 1916.

Referring circular eighteenth.

Bulgarian foreign minister responds following:

"I have had the honor to receive the letter you were pleased to address to me on the 28th of this month to acquaint me with the step taken by Mr. President Wilson in favor of peace, and I hasten to communicate to you the following answer of the Bulgarian Government:

"The generous initiative of the President of the United States tending to create bases for the restoration of peace, was cordially received and taken into consideration by the Royal Government in the same friendly spirit which is evidenced by the presidential communication. The President indicates the object he has at heart and leaves open the choice of the way leading to that object. The Royal Government considers a direct exchange of views to be the most efficacious way to attain the desired end. In accordance with its declaration of the 12th of December inst., which extends a hand for peace negotiations, it has the honor to propose an immediate meeting at one place of delegates of the belligerent powers. The Royal Government shares the view that the great undertaking which consists in

preventing future war can only be initiated after the close of present conflict of nations. When that time comes, the Royal Government will be glad to coöperate with the United States of America and other neutral nations in that sublime endeavor.

"Be pleased to accept, Mr. Consul General, the assurances of my high consideration.

"(Signed) DOCTOR RADOSLAVOFF."
MURPHY.

Ambassador Sharp to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Paris, January 10, 1917.

Copy of Belgian note as follows:

"The Government of the King, which has associated itself with the answer handed by the President of the French Council to the American Ambassador on behalf of all, is particularly desirous of paying tribute to the sentiment of humanity which prompted the President of the United States to send his note to the belligerent powers and it highly esteems the friendship expressed for Belgium through his kindly intermediation. It desires as much as Mr. Woodrow Wilson to see the present war ended as early as possible.

"But the President seems to believe that the statesmen of the two opposing camps pursue the same objects of war. The example of Belgium unfortunately demonstrates that this is in no wise the fact. Belgium has never, like the Central Powers, aimed at conquests. The barbarous fashion in which the German Government has treated, and is still treating, the Belgian nation, does not permit the supposition that Germany will preoccupy herself with guaranteeing in the future the rights of the weak nations which she has not ceased to trample under foot since the war, let loose by her, began to desolate Europe. On the other hand, the Government of the King has noted with pleasure and with confidence the assurances that the United States is impatient to coöperate in the measures which will be taken after the conclusion of peace, to protect and guarantee the small nations against violence and oppression.

"Previous to the German ultimatum, Belgium only aspired to live upon good terms with all her neighbors; she practiced with scrupulous loyalty towards each one of them the duties imposed by her neutrality. In the same manner she has been rewarded by Germany for the confidence she placed in her, through which, from one day to the other, without any plausible reason, her neutrality was violated, and the Chancellor of the Empire when announcing to the *Reichstag* this violation of right and of treaties, was obliged to recognize the iniquity of such an act and predetermine that it would be repaired. But the Germans, after the occupation of Belgian territory, have displayed no better observance of the rules of international law or the stipulations

of The Hague Convention. They have, by taxation, as heavy as it is arbitrary, drained the resources of the country; they have intentionally ruined its industries, destroyed whole cities, put to death and imprisoned a considerable number of inhabitants. Even now, while they are loudly proclaiming their desire to put an end to the horrors of war, they increase the rigors of the occupation by deporting into servitude Belgian workers by the thousands.

"If there is a country which has the right to say that it has taken up arms to defend its existence, it is assuredly Belgium. Compelled to fight or to submit to shame, she passionately desires that an end be brought to the unprecedented sufferings of her population. But she could only accept a peace which would assure her as well as equitable reparation, security and guarantees for the future.

"The American people, since the beginning of the war, has manifested for the oppressed Belgian nation, its most ardent sympathy. It is an American committee, the Commission for Relief in Belgium which, in close union with the Government of the King and the National Committee, displays an untiring devotion and marvelous activity in re-victualling Belgium. The Government of the King is happy to avail itself of this opportunity to express its profound gratitude to the Commission for Relief as well as to the generous Americans eager to relieve the misery of the Belgian population. Finally, nowhere more than in the United States have the abductions and deportations of Belgian civilians provoked such a spontaneous movement of protestation and indignant reproof.

"These facts, entirely to the honor of the American nation, allow the Government of the King to entertain the legitimate hope that at the time of the definitive settlement of this long war, the voice of the Entente Powers will find in the United States a unanimous echo to claim in favor of the Belgian nation, innocent victim of German ambition and covetousness, the rank and the place which its irreproachable past, the valor of its soldiers, its fidelity to honor and its remarkable faculties for work assign to it among the civilized nations."

SHARP.

Ambassador Sharp to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Paris, January 10, 1917.

The following is the translation of the French note:

"The Allied Governments have received the note which was delivered to them in the name of the Government of the United States on the nineteenth of December, 1916. They have studied it with the care imposed upon them both by the exact realization which they have of the gravity of the hour and by the sincere friendship which attaches them to the American people.

"In general way they wish to declare that they pay tribute to the elevation of the sentiment with which the American note is in-

spired and that they associate themselves with all their hopes with the project for the creation of a league of nations to insure peace and justice throughout the world. They recognize all the advantages for the cause of humanity and civilization which the institution of international agreements, destined to avoid violent conflicts between nations would prevent; agreements which must imply the sanctions necessary to insure their execution and thus to prevent an apparent security from only facilitating new aggressions. But a discussion of future arrangements destined to insure an enduring peace presupposes a satisfactory settlement of the actual conflict; the Allies have as profound a desire as the Government of the United States to terminate as soon as possible a war for which the Central Empires are responsible and which inflicts such cruel sufferings upon humanity. But they believe that it is impossible at the present moment to attain a peace which will assure them reparation, restitution, and such guarantees to which they are entitled by the aggression for which the responsibility rests with the Central Powers and of which the principle itself tended to ruin the security of Europe; a peace which would on the other hand permit the establishment of the future of European nations on a solid basis. The Allied nations are conscious that they are not fighting for selfish interests, but above all to safeguard the independence of peoples, of right, and of humanity.

"The Allies are fully aware of the losses and suffering which the war causes to neutrals as well as to belligerents and they deplore them; but they do not hold themselves responsible for them, having in no way either willed or provoked this war, and they strive to reduce these damages in the measure compatible with the inexorable exigencies of their defense against the violence and the wiles of the enemy.

"It is with satisfaction therefore that they take note of the declaration that the American communication is in nowise associated in its origin with that of the Central Powers transmitted on the eighteenth of December by the Government of the United States. They did not doubt moreover the resolution of that Government to avoid even the appearance of a support, even moral, of the authors responsible for the war.

"The Allied Governments believe that they must protest in the most friendly but in the most specific manner against the assimilation established by the American note between the two groups of belligerents; this assimilation, based upon public declarations by the Central Powers, is in direct opposition to the evidence, both as regards responsibility for the past and as concerns guarantees for the future; President Wilson in mentioning it certainly had no intention of associating himself with it.

"If there is an historical fact established at the present date, it is the willful aggression of Germany and Austria-Hungary to insure their hegemony over Europe and their economic domination over the world. Germany proved by her declaration of war, by the immediate violation of Belgium and Luxemburg and by her manner of conducting the war, her simulating contempt for all principles of humanity

and all respect for small states; as the conflict developed the attitude of the Central Powers and their Allies has been a continual defiance of humanity and civilization. Is it necessary to recall the horrors which accompanied the invasion of Belgium and of Servia, the atrocious régime imposed upon the invaded countries, the massacre of hundreds of thousands of inoffensive Armenians, the barbarities perpetrated against the populations of Syria, the raids of Zeppelins on open towns, the destruction by submarines of passenger steamers and of merchantmen even under neutral flags, the cruel treatment inflicted upon prisoners of war, the juridical murders of Miss Cavell, of Captain Fryatt, the deportation and the reduction to slavery of civil populations, et cetera? The execution of such a series of crimes perpetrated without any regard for universal reprobation fully explains to President Wilson the protest of the Allies.

"They consider that the note which they sent to the United States in reply to the German note will be a response to the questions put by the American Government, and according to the exact words of the latter, constitute 'a public declaration as to the conditions upon which the war could be terminated.'

"President Wilson desires more: he desires that the belligerent powers openly affirm the objects which they seek by continuing the war; the Allies experience no difficulty in replying to this request. Their objects in the war are well known; they have been formulated on many occasions by the chiefs of their divers Governments. Their objects in the war will not be made known in detail with all the equitable compensations and indemnities for damages suffered until the hour of negotiations. But the civilized world knows that they imply in all necessity and in the first instance the restoration of Belgium, of Servia, and of Montenegro and the indemnities which are due them; the evacuation of the invaded territories of France, of Russia and of Roumania with just reparation; the reorganization of Europe, guaranteed by a stable régime and founded as much upon respect of nationalities and full security and liberty, economic development, which all nations, great or small, possess, as upon territorial conventions and international agreements suitable to guarantee territorial and maritime frontiers against unjustified attacks; the restitution of provinces or territories wrested in the past from the Allies by force or against the will of their populations, the liberation of Italians, of Slavs, of Roumanians and of Tcheco Slovaques from foreign domination; the enfranchisement of populations subject to the bloody tyranny of the Turks; the expulsion from Europe of the Ottoman Empire decidedly (* * *)¹ to western civilization. The intentions of His Majesty the Emperor of Russia regarding Poland have been clearly indicated in the proclamation which he has just addressed to his armies. It goes without saying that if the Allies wish to liberate Europe from the brutal covetousness of Prussian militarism, it never has been their design, as has been alleged, to encompass the extermination of the German peoples and their political disappearance. That

¹ Apparent omission.

which they desire above all is to insure a peace upon the principles of liberty and justice, upon the inviolable fidelity to international obligation with which the Government of the United States has never ceased to be inspired.

"United in the pursuits of this supreme object the Allies are determined, individually and collectively, to act with all their power and to consent to all sacrifices to bring to a victorious close a conflict upon which they are convinced not only their own safety and prosperity depends but also the future of civilization itself."

SHARP.

Memorandum from British Embassy.¹

FOREIGN OFFICE,

London, January 13, 1917.

SIR: In sending you a translation of the Allied Note I desire to make the following observations, which you should bring to the notice of the United States Government.

I gather from the general tenor of the President's note that while he is animated by an intense desire that peace should come soon and that when it comes it should be lasting, he does not for the moment at least concern himself with the terms on which it should be arranged. His Majesty's Government entirely share the President's ideas, but they feel strongly that the durability of peace must largely depend on its character and that no stable system of international relations can be built on foundations which are essentially and hopelessly defective.

This becomes clearly apparent if we consider the main conditions which rendered possible the calamities from which the world is now suffering. These were the existence of great powers consumed with the lust of domination in the midst of a community of nations ill prepared for defense, plentifully supplied indeed with international laws, but with no machinery for enforcing them and weakened by the fact that neither the boundaries of the various States nor their internal constitution harmonized with the aspirations of their constituent races or secured to them just and equal treatment.

That this last evil would be greatly mitigated if the Allies secured the changes in the map of Europe outlined in their joint note is manifest, and I need not labour the point.

It has been argued, indeed, that the expulsion of the Turks from Europe forms no proper or logical part of this general scheme. The

¹ Received at the Department of State from the British Ambassador January 16, 1917.

maintenance of the Turkish Empire was, during many generations, regarded by statesmen of world-wide authority as essential to the maintenance of European peace. Why, it is asked, should the cause of peace be now associated with a complete reversal of this traditional policy?

The answer is that circumstances have completely changed. It is unnecessary to consider now whether the creation of a reformed Turkey, mediating between hostile races in the Near East, was a scheme which, had the Sultan been sincere and the Powers united, could ever have been realized. It certainly can not be realized now. The Turkey of "Union and Progress" is at least as barbarous and is far more aggressive than the Turkey of Sultan Abdul Hamid. In the hands of Germany it has ceased even in appearance to be a bulwark of peace and is openly used as an instrument of conquest. Under German officers Turkish soldiers are now fighting in lands from which they had long been expelled, and a Turkish Government, controlled, subsidized and supported by Germany, has been guilty of massacres in Armenia and Syria more horrible than any recorded in the history even of those unhappy countries. Evidently the interests of peace and the claims of nationality alike require that Turkish rule over alien races shall if possible be brought to an end; and we may hope that the expulsion of Turkey from Europe will contribute as much to the cause of peace as the restoration of Alsace-Lorraine to France, of Italia Irredenta to Italy, or of any of the other territorial changes indicated in the Allied Note.

Evidently, however, such territorial rearrangements, though they may diminish the occasions of war, provide no sufficient security against its recurrence. If Germany, or rather those in Germany who mold its opinions and control its destinies, again set out to domineer the world, they may find that by the new order of things the adventure is made more difficult, but hardly that it is made impossible. They may still have ready to their hand a political system organised through and through on a military basis; they may still accumulate vast stores of military equipment; they may still persist in their methods of attack, so that their more pacific neighbours will be struck down before they can prepare themselves for defense. If so, Europe when the war is over will be far poorer in men, in money, and in mutual good will than it was when the war began but it will not be safer; and the hopes for the future of the world entertained by the President will be as far as ever from fulfilment.

There are those who think that for this disease International

Treaties and International Laws may provide a sufficient cure. But such persons have ill learned the lessons so clearly taught by recent history. While other nations, notably the United States of America and Britain, were striving by treaties of arbitration to make sure that no chance quarrel should mar the peace they desired to make perpetual, Germany stood aloof. Her historians and philosophers preached the splendors of war, power was proclaimed as the true end of the State, and the General Staff forged with untiring industry the weapons by which at the appointed moment power might be achieved. These facts proved clearly enough that Treaty arrangements for maintaining peace were not likely to find much favour at Berlin; they did not prove that such Treaties once made would be utterly ineffectual. This became evident only when war had broken out, though the demonstration, when it came, was overwhelming. So long as Germany remains the Germany which without a shadow of justification overran and barbarously ill-treated a country it was pledged to defend, no State can regard its rights as secure if they have no better protection than a solemn Treaty.

The case is made worse by the reflection that these methods of calculated brutality were designed by the Central Powers not merely to crush to the dust those with whom they were at war but to intimidate those with whom they were still at peace. Belgium was not only a victim, it was an example. Neutrals were intended to note the outrages which accompanied its conquest, the reign of terror which followed on its occupation, the deportation of a portion of its population, the cruel oppression of the remainder. And lest the nations happily protected either by British Fleets or by their own from German Armies should suppose themselves safe from German methods, the submarine has (within its limits) assiduously imitated the barbarous practices of the sister service. The War Staffs of the Central Powers are well content to horrify the world if at the same time they can terrorize it.

If then the Central Powers succeed, it will be to methods like these that they will owe their success. How can any reform of International relations be based on a peace thus obtained? Such a peace would represent the triumph of all the forces which make war certain and make it brutal. It would advertise the futility of all the methods on which civilization relies to eliminate the occasions of International dispute and to mitigate their ferocity. Germany and Austria made the present war inevitable by attacking the rights of one small State, and they gained their initial triumphs by violating the Treaty guar-

antees of the territories of another. Are small States going to find in them their future protectors or in Treaties made by them a bulwark against aggression? Terrorism by land and sea will have proved itself the instrument of victory. Are the victors likely to abandon it on the appeal of neutrals? If existing Treaties are no more than scraps of paper, can fresh Treaties help us? If the violation of the most fundamental canons of International Law be crowned with success, will it not be in vain that the assembled nations labor to improve their code? None will profit by their rules but Powers who break them. It is those who keep them that will suffer.

Though, therefore, the people of this country share to the full the desire of the President for peace, they do not believe peace can be durable if it be not based on the success of the Allied cause. For a durable peace can hardly be expected unless three conditions are fulfilled. The first is that existing causes of international unrest should be, as far as possible, removed or weakened. The second is that the aggressive aims and the unscrupulous methods of the Central Powers should fall into disrepute among their own peoples. The third is that behind international law and behind all Treaty arrangements for preventing or limiting hostilities some form of international sanction should be devised which would give pause to the hardest aggressor. These conditions may be difficult of fulfilment. But we believe them to be in general harmony with the President's ideas and we are confident that none of them can be satisfied, even imperfectly, unless peace can be secured on the general lines indicated (so far as Europe is concerned) in the joint note. Therefore it is that this country has made, is making, and is prepared to make sacrifices of blood and treasure unparalleled in its history. It bears these heavy burdens not merely that it may thus fulfil its Treaty obligations nor yet that it may secure a barren triumph of one group of nations over another. It bears them because it firmly believes that on the success of the Allies depend the prospects of peaceful civilization and of those International reforms which the best thinkers of the New World, as of the Old, dare to hope may follow on the cessation of our present calamities.

I am, etc.,

(Signed)

ARTHUR JAMES BALFOUR.

His Excellency,

The Right Honourable,

SIR CECIL SPRING RICE, G. C. M. G., etc., etc., etc.

PART XXIV.

SEVERANCE OF DIPLOMATIC RELATIONS BETWEEN
THE UNITED STATES AND GERMANY.

The German Ambassador to the Secretary of State.

[Translation.]

GERMAN EMBASSY,
Washington, January 31, 1917.

MR. SECRETARY OF STATE:

Your Excellency were good enough to transmit to the Imperial Government a copy of the message which the President of the United States of America addressed to the Senate on the 22d inst. The Imperial Government has given it the earnest consideration which the President's statements deserve, inspired as they are by a deep sentiment of responsibility. It is highly gratifying to the Imperial Government to ascertain that the main tendencies of this important statement correspond largely to the desires and principles professed by Germany. These principles especially include selfgovernment and equality of rights for all nations. Germany would be sincerely glad if in recognition of this principle countries like Ireland and India, which do not enjoy the benefits of political independence, should now obtain their freedom. The German people also repudiate all alliances which serve to force the countries into a competition for might and to involve them in a net of selfish intrigues. On the other hand Germany will gladly cooperate in all efforts to prevent future wars. The freedom of the seas, being a preliminary condition of the free existence of nations and the peaceful intercourse between them, as well as the open door for the commerce of all nations, has always formed part of the leading principles of Germany's political program. All the more the Imperial Government regrets that the attitude of her enemies who are so entirely opposed to peace makes it impossible for the world at present to bring about the realization of these lofty ideals. Germany and her allies were ready to enter now into a discussion of peace and had set down as basis the guaranty of existence, honor, and free development of their peoples. Their aims, as has been expressly stated in the note of December 12, 1916, were not directed towards the destruction or annihilation of their enemies and were, according to their conviction, perfectly compatible with the rights of the other nations. As to Belgium, for which such warm and cordial sympathy is felt in the United States, the Chancellor had declared only a few weeks previously that its annexation had never formed part of Germany's intentions. The peace to be signed with Belgium was to provide for such conditions in that country, with which Germany desires to maintain friendly neighborly relations, that Belgium should not be used again by Germany's

enemies for the purpose of instigating continuous hostile intrigues. Such precautionary measures are all the more necessary, as Germany's enemies have repeatedly stated not only in speeches delivered by their leading men but also in the statutes of the economical conference in Paris that it is their intention not to treat Germany as an equal, even after peace has been restored, but to continue their hostile attitude and especially to wage a systematical economical war against her.

The attempt of the four allied powers to bring about peace has failed owing to the lust of conquest of their enemies, who desired to dictate the conditions of peace. Under the pretense of following the principle of nationality our enemies have disclosed their real aims in this war, viz., to dismember and dishonor Germany, Austria-Hungary, Turkey, and Bulgaria. To the wish of reconciliation they oppose the will of destruction. They desire a fight to the bitter end.

A new situation has thus been created which forces Germany to new decisions. Since two years and a half England is using her naval power for a criminal attempt to force Germany into submission by starvation. In brutal contempt of International Law the group of Powers led by England does not only curtail the legitimate trade of their opponents but they also by ruthless pressure compel neutral countries either to altogether forego every trade not agreeable to the Entente-Powers or to limit it according to their arbitrary decrees. The American Government knows the steps which have been taken to cause England and her allies to return to the rules of International Law and to respect the freedom of the seas. The English Government, however, insists upon continuing its war of starvation, which does not at all affect the military power of its opponents, but compels women and children, the sick and the aged to suffer for their country pains and privations which endanger the vitality of the nation. Thus British tyranny mercilessly increases the sufferings of the world indifferent to the laws of humanity, indifferent to the protests of the Neutrals whom they severely harm, indifferent even to the silent longing for peace among England's own allies. Each day of the terrible struggle causes new destruction, new sufferings. Each day shortening the war will, on both sides, preserve the life of thousands of brave soldiers and be a benefit to mankind.

The Imperial Government could not justify before its own conscience, before the German people and before history the neglect of any means destined to bring about the end of the war. Like the President of the United States, the Imperial Government had hoped to reach this goal by negotiations. After the attempts to come to an understanding with the Entente-Powers have been answered by the latter with the announcement of an intensified continuation of the war, the Imperial Government—in order to serve the welfare of mankind in a higher sense and not to wrong its own people—is now compelled to continue the fight for existence, again forced upon it, with the full employment of all the weapons which are at its disposal.

Sincerely trusting that the people and Government of the United States will understand the motives for this decision and its necessity, the Imperial Government hopes that the United States may view the new situation from the lofty heights of impartiality and assist, on their part, to prevent further misery and avoidable sacrifice of human life.

Inclosing two memoranda regarding the details of the contemplated military measures at sea, I remain, etc.,

(Signed) J. BERNSTORFF.

[Inclosure 1.]

MEMORANDUM.

After bluntly refusing Germany's peace offer, the Entente-Powers stated in their note addressed to the American Government that they are determined to continue the war in order to deprive Germany of German provinces in the West and the East, to destroy Austria-Hungary and to annihilate Turkey. In waging war with such aims, the Entente-Allies are violating all rules of International Law, as they prevent the legitimate trade of Neutrals with the Central Powers, and of the Neutrals among themselves. Germany has, so far, not made unrestricted use of the weapon which she possesses in her submarines. Since the Entente-Powers, however, have made it impossible to come to an understanding based upon equality of rights of all nations, as proposed by the Central Powers, and have instead declared only such a peace to be possible which shall be dictated by the Entente-Allies and shall result in the destruction and humiliation of the Central Powers, Germany is unable further to forego the full use of her submarines. The Imperial Government, therefore, does not doubt that the Government of the United States will understand the situation thus forced upon Germany by the Entente-Allies' brutal methods of war and by their determination to destroy the Central Powers, and that the Government of the United States will further realize that the now openly disclosed intentions of the Entente-Allies give back to Germany the freedom of the action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917, in a zone around Great Britain, France, Italy, and in the Eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France, etc., etc. All ships met within that zone will be sunk.

The Imperial Government is confident that this measure will result in a speedy termination of the war and in the restoration of peace which the Government of the United States has so much at heart. Like the Government of the United States, Germany and her allies

had hoped to reach this goal by negotiations. Now that the war, through the fault of Germany's enemies, has to be continued, the Imperial Government feels sure that the Government of the United States will understand the necessity of adopting such measures and are destined to bring about a speedy end of the horrible and useless bloodshed. The Imperial Government hopes all the more for such an understanding of her position, as the neutrals have under the pressure of the Entente-Powers, suffered great losses, being forced by them either to give up their entire trade or to limit it according to conditions arbitrarily determined by Germany's enemies in violation of International Law.

[Inclosure 2.]

MEMORANDUM.

From February 1, 1917, all sea traffic will be stopped with every available weapon and without further notice in the following blockade zones around Great Britain, France, Italy, and in the Eastern Mediterranean.

In the North: The zone is confined by a line at a distance of 20 seamiles along the Dutch coast to Terschelling fire ship, the degree of longitude from Terschelling fire ship to Udsire, a line from there across the point 62 degrees north 0 degrees longitude to 62 degrees north 5 degrees west, further to a point 3 seamiles south of the southern point of the Faroe Islands, from there across point 62 degrees north 10 degrees west to 61 degrees north 15 degrees west, then 57 degrees north 20 degrees west to 47 degrees north 20 degrees west, further to 43 degrees north, 15 degrees west, then along the degree of latitude 43 degrees north to 20 seamiles from Cape Finisterre and at a distance of 20 seamiles along the north coast of Spain to the French boundary.

In the South: The Mediterranean.

For neutral ships remains open: the sea west of the line Pt. del'Espiquette to 38 degrees 20 minutes north and 6 degrees east, also north and west of a zone 61 seamiles wide along the Northafrican coast, beginning at 2 degrees longitude west. For the connection of this sea zone with Greece there is provided a zone of a width of 20 seamiles north and east of the following lines: 38 degrees north and 6 degrees east to 38 degrees north and 10 degrees east to 37 degrees north and 11 degrees 30 minutes east to 34 degrees north and 11 degrees 30 minutes east to 34 degrees north and 22 degrees 30 minutes east.

From there leads a zone 20 seamiles wide west of 22 degrees 30 minutes eastern longitude into Greek territorial waters.

Neutral ships navigating these blockade zones do so at their own risk. Although care has been taken, that neutral ships which are on their way toward ports of the blockade zones on February 1, 1917,

and have come in the vicinity of the latter, will be spared during a sufficiently long period it is strongly advised to warn them with all available means in order to cause their return.

Neutral ships which on February 1 are in ports of the blockaded zones, can, with the same safety, leave them if they sail before February 5, 1917, and take the shortest route into safe waters.

The instructions given to the commanders of German submarines provide for a sufficiently long period during which the safety of passengers on unarmed enemy passenger ships is guaranteed.

Americans, enroute to the blockade zone on enemy freight steamers, are not endangered, as the enemy shipping firms can prevent such ships in time from entering the zone.

Sailing of regular American passenger steamers may continue undisturbed after February 1, 1917, if

- (a) the port of destination is Falmouth
- (b) sailing to or coming from that port course is taken via the Scilly Islands and a point 50 degrees north 20 degrees west
- (c) the steamers are marked in the following way which must not be allowed to other vessels in American ports: On ships' hull and superstructure 3 vertical stripes 1 meter wide each to be painted alternately white and red. Each mast should show a large flag checkered white and red, and the stern the American national flag.

Care should be taken that, during dark, national flag and painted marks are easily recognizable from a distance and that the boats are well lighted throughout.

- (d) one steamer a week sails in each direction with arrival at Falmouth on Sunday and departure from Falmouth on Wednesday
- (e) The United States Government guarantees that no contraband (according to German contraband list) is carried by those steamers.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, February 3, 1917.

EXCELLENCY:

In acknowledging the note with accompanying memoranda, which you delivered into my hands on the afternoon of January 31st, and which announced the purpose of your Government as to the future conduct of submarine warfare, I would direct your attention to the following statements appearing in the correspondence which has

passed between the Government of the United States and the Imperial German Government in regard to submarine warfare.

This Government on April 18, 1916, in presenting the case of the *Sussex* declared—

“If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether.”

In reply to the note from which the above declaration is quoted Your Excellency's Government stated in a note dated May 4, 1916:

“The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

“But neutrals cannot expect that Germany, forced to fight for her existence, shall, for the sake of neutral interests, restrict the use of an effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it has been violated.”

To this reply this Government made answer on May 8, 1916, in the following language:

“The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might

appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it cannot for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative."

To this Government's note of May 8th no reply was made by the Imperial Government.

In one of the memoranda accompanying the note under acknowledgment, after reciting certain alleged illegal measures adopted by Germany's enemies, this statement appears:

"The Imperial Government, therefore, does not doubt that the Government of the United States will understand the situation thus forced upon Germany by the Entente-Allies' brutal methods of war and by their determination to destroy the Central Powers, and that the Government of the United States will further realize that the now openly disclosed intentions of the Entente-Allies give back to Germany the freedom of action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

"Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing, after February 1, 1917, in a zone around Great Britain, France, Italy, and in the eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France, etc., etc. All ships met within the zone will be sunk."

In view of this declaration, which withdraws suddenly and without prior intimation the solemn assurance given in the Imperial Government's note of May 4, 1916, this Government has no alternative consistent with the dignity and honor of the United States but to take the course which it explicitly announced in its note of April 18, 1916, it would take in the event that the Imperial Government did not declare and effect an abandonment of the methods of submarine warfare then employed and to which the Imperial Government now purpose again to resort.

The President has, therefore, directed me to announce to Your Excellency that all diplomatic relations between the United States and the German Empire are severed, and that the American ambassador at Berlin will be immediately withdrawn, and in accordance with such announcement to deliver to Your Excellency your passports.

I have, etc.,

ROBERT LANSING.

ADDRESS OF THE PRESIDENT OF THE UNITED STATES,
DELIVERED AT A JOINT SESSION OF THE TWO
HOUSES OF CONGRESS, FEBRUARY 3, 1917.

GENTLEMEN OF THE CONGRESS:

The Imperial German Government on the thirty-first of January announced to this Government and to the governments of the other neutral nations that on and after the first day of February, the present month, it would adopt a policy with regard to the use of submarines against all shipping seeking to pass through certain designated areas of the high seas to which it is clearly my duty to call your attention.

Let me remind the Congress that on the eighteenth of April last, in view of the sinking on the twenty-fourth of March of the cross-channel passenger steamer *Sussex* by a German submarine, without summons or warning, and the consequent loss of the lives of several citizens of the United States who were passengers aboard her, this Government addressed a note to the Imperial German Government in which it made the following declaration:

"If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether."

In reply to this declaration the Imperial German Government gave this Government the following assurance:

"The German Government is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, a principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

"The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have re-

ceived the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

"But," it added, "neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it has been violated."

To this the Government of the United States replied on the eighth of May, accepting, of course, the assurances given, but adding.

"The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it can not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative."

To this note of the eighth of May the Imperial German Government made no reply.

On the thirty-first of January, the Wednesday of the present week, the German Ambassador handed to the Secretary of State, along with a formal note, a memorandum which contains the following statement:

"The Imperial Government, therefore, does not doubt that the Government of the United States will understand the situation thus forced upon Germany by the Entente-Allies' brutal methods of war and by their determination to destroy the Central Powers, and that the Government of the United States will further realize that the now

openly disclosed intentions of the Entente-Allies give back to Germany the freedom of action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

"Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917, in a zone around Great Britain, France, Italy, and in the Eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France, etc., etc. All ships met within the zone will be sunk."

I think that you will agree with me that, in view of this declaration, which suddenly and without prior intimation of any kind deliberately withdraws the solemn assurance given in the Imperial Government's note of the fourth of May, 1916, this Government has no alternative consistent with the dignity and honour of the United States but to take the course which, in its note of the eighteenth of April, 1916, it announced that it would take in the event that the German Government did not declare and effect an abandonment of the methods of submarine warfare which it was then employing and to which it now purposes again to resort.

I have, therefore, directed the Secretary of State to announce to His Excellency the German Ambassador that all diplomatic relations between the United States and the German Empire are severed, and that the American Ambassador at Berlin will immediately be withdrawn; and, in accordance with this decision, to hand to His Excellency his passports.

Notwithstanding this unexpected action of the German Government, this sudden and deeply deplorable renunciation of its assurances, given this Government at one of the most critical moments of tension in the relations of the two governments, I refuse to believe that it is the intention of the German authorities to do in fact what they have warned us they will feel at liberty to do. I cannot bring myself to believe that they will indeed pay no regard to the ancient friendship between their people and our own or to the solemn obligations which have been exchanged between them and destroy American ships and take the lives of American citizens in the wilful prosecution of the ruthless naval programme they have announced their intention to adopt. Only actual overt acts on their part can make me believe it even now.

If this inveterate confidence on my part in the sobriety and prudent foresight of their purpose should unhappily prove unfounded; if American ships and American lives should in fact be sacrificed by

their naval commanders in heedless contravention of the just and reasonable understandings of international law and the obvious dictates of humanity, I shall take the liberty of coming again before the Congress, to ask that authority be given me to use any means that may be necessary for the protection of our seamen and our people in the prosecution of their peaceful and legitimate errands on the high seas. I can do nothing less. I take it for granted that all neutral governments will take the same course.

We do not desire any hostile conflict with the Imperial German Government. We are the sincere friends of the German people and earnestly desire to remain at peace with the Government which speaks for them. We shall not believe that they are hostile to us unless and until we are obliged to believe it; and we purpose nothing more than the reasonable defense of the undoubted rights of our people. We wish to serve no selfish ends. We seek merely to stand true alike in thought and in action to the immemorial principles of our people which I sought to express in my address to the Senate only two weeks ago,—seek merely to vindicate our right to liberty and justice and an unmolested life. These are the bases of peace, not war. God grant we may not be challenged to defend them by acts of wilful injustice on the part of the Government of Germany!

*The Minister of Switzerland in Charge of German Interests in
America to the Secretary of State.*

[Translation.]

LEGATION OF SWITZERLAND,
Washington, March 23, 1917.¹

MR. SECRETARY OF STATE:

The Political Department, Division of Foreign Affairs, instructs me and I have hereby the honor to notify the Government of the United States as follows:

“The Imperial German Government to-day gave notice of an extension of the submarine blockade, according to which it will henceforth and without further notice oppose by every means in its power any navigation whatsoever of the waters of the Arctic Ocean lying east and south of the seventy-fifth degree of latitude north, with the exception of the Norwegian territorial waters. Neutral vessels navigating that zone would do so at their risk and peril. Steps, how-

¹ Received.

ever, have been taken directing that neutral vessels already on their way to ports within the newly prohibited zone or intending to leave those ports should not until the 5th of April be attacked without previous warning."

Be pleased, etc.,

P. RITTER.

The Minister of Switzerland in Charge of German Interests in America to the Secretary of State.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, March 24, 1917.

MR. SECRETARY OF STATE:

In continuation of my note of yesterday I am asked and I have the honor to inform Your Excellency that, according to a telegram received this day from the Political Department, the German Government's notice of the blockade of the Arctic Ocean is to be completed as follows:

"The blockaded waters east of the 24th degree of longitude east and south of the seventy-fifth degree of latitude north."

Be pleased, etc.,

P. RITTER.

PART XXV.

- (1) PROPOSED MODIFICATION OF TREATY OF 1799 CONCERNING THE TREATMENT OF CITIZENS AND PROPERTY. (2) OFFER TO NEGOTIATE FORMALLY OR INFORMALLY WITH THE UNITED STATES, PROVIDED BLOCKADE AGAINST ENGLAND IS NOT BROKEN.

The Minister of Switzerland in Charge of German Interests in America to the Secretary of State.

LEGATION OF SWITZERLAND,
Washington, February 10, 1917.

MR. SECRETARY OF STATE:

The German Legation at Berne has communicated the following to the Swiss Political Department (Foreign Office):

"The American treaty of friendship and commerce of the eleventh of July, 1799, provides by Article 23 for the treatment of the subjects or citizens of the two States and their property in the

event of war between the two States. This Article, which is without question in full force as regards the relations between the German Empire and the United States, requires certain explanations and additions on account of the development of international law. The German Government therefore proposes that a special arrangement be now signed, of which the English text is as follows:"

"Agreement between Germany and the United States of America concerning the treatment of each other's citizens and their private property after the severance of diplomatic relations.

"ARTICLE 1). After the severance of diplomatic relations between Germany and the United States of America and in the event of the outbreak of war between the two powers, the citizens of either party and their private property in the territory of the other party shall be treated according to article 23 of the treaty of amity and commerce between Prussia and the United States, of the 11th of July, 1799, with the following explanatory and supplementary clauses:

"ARTICLE 2). German merchants in the United States and American merchants in Germany shall, so far as the treatment of their persons and their property is concerned, be held in every respect on a par with the other persons mentioned in article 23. They shall accordingly, even after the period provided for in article 23 has elapsed, be entitled to remain and continue their profession in the country of their residence. Merchants as well as the other persons mentioned in article 23 may be excluded from fortified places and other places of military importance.

"ARTICLE 3). Germans in the United States and Americans in Germany shall be free to leave the country of their residence within the time and by the routes that shall be assured to them by the proper authorities. The persons departing shall be entitled to take along their personal property, including money, valuables, and bank accounts, excepting such property the exportation of which is prohibited according to general provisions.

"ARTICLE 4). The protection of Germans in the United States and of Americans in Germany and of their property shall be guaranteed in accordance with the laws existing in the countries of either party. They shall be under no other restrictions concerning the enjoyment of their private rights and the judicial enforcement of their rights than neutral residents. They may accordingly not be transferred to concentration camps, nor shall their private property be subject to sequestration or liquidation or other compulsory alienation except in case that under the existing laws apply also to neutrals. As a general rule German property in the United States and American property in Germany shall not be subject to sequestration or liquidation, or other compulsory alienation under other conditions than neutral property.

"ARTICLE 5). Patent rights or other protected rights held by Germans in the United States or Americans in Germany shall not be declared void, nor shall the exercise of such rights be impeded, nor shall such rights be transferred to others without the consent of the

person entitled thereto, provided that regulations made exclusively in the interest of the State shall apply.

"ARTICLE 6). Contracts made between Germans and Americans, either before or after the severance of diplomatic relations, also obligations of all kinds between Germans and Americans, shall not be declared cancelled, void, or in suspension, except under provisions applicable to neutrals. Likewise the citizens of either party shall not be impeded in fulfilling their liabilities arising from such obligations, either by injunctions or by other provisions, unless these apply to neutrals.

"ARTICLE 7). The provisions of the sixth Hague Convention, relative to the treatment of enemy merchant ships at the outbreak of hostilities, shall apply to the merchant vessels of either party and their cargo. The aforesaid ships may not be forced to leave port unless at the same time they be given a pass, recognized as binding by all the enemy sea powers, to a home port, or a port of an allied country, or to another port of the country in which the ship happens to be.

"ARTICLE 8). The regulations of chapter 3 of the eleventh Hague Convention, relative to certain restrictions in the exercise of the right of capture in maritime war, shall apply to the captains, officers, and members of the crews of merchant ships specified in article 7, and of such merchant ships as may be captured in the course of a possible war.

"ARTICLE 9). This agreement shall apply also to the colonies and other foreign possessions of either party."

I am instructed and have the honor to bring the foregoing to your Excellency's knowledge and to add that the German Government would consider the arrangement as concluded and act accordingly as soon as the consent of the American Government shall have been communicated to it through the Swiss Government.

Be pleased, etc.,

P. RITTER.

The Secretary of State to the Minister of Switzerland in charge of German interests in America.

DEPARTMENT OF STATE,
Washington, March 20, 1917.

SIR: I beg to acknowledge the receipt of your note of February 10th presenting the proposals of the German Government for an interpretative and supplementary agreement as to Article 23 of the Treaty of 1799. After due consideration, I have to inform you that the Government of the United States is not disposed to look with favor upon the proposed agreement to alter or supplement the mean-

ing of Article 23 of this Treaty. This position of the Government of the United States, which might under other conditions be different, is due to the repeated violations by Germany of the Treaty of 1828 and the Articles of the Treaties of 1785 and 1799 revived by the Treaty of 1828. It is not necessary to narrate in detail these violations, for the attention of the German Government has been called to the circumstances of each instance of violation, but I may here refer to certain of them briefly and in general terms:

Since the sinking of the American steamer *William P. Frye* for the carriage of contraband, there have been perpetrated by the German naval forces similar unwarranted attacks upon and destruction of numerous American vessels for the reason, as alleged, that they were engaged in transportation of articles of contraband, notwithstanding and in disregard of Article 13 of the Treaty of 1799, that "No such articles (of contraband) carried in the vessels or by the subjects or citizens of either party to the enemies of the other shall be deemed contraband so as to induce confiscation or condemnation and a loss of property to individuals," and that "In the case . . . of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not in that case be carried into any port or further detained, but shall be allowed to proceed on her voyage."

In addition to the sinking of American vessels, foreign merchant vessels carrying American citizens and American property have been sunk by German submarines without warning and without any adequate security for the safety of the persons on board or compensation for the destruction of the property by such action, notwithstanding the solemn engagement of Article 15 of the Treaty of 1799 that "All persons belonging to any vessel of war, public or private, who shall molest or insult in any manner whatever the people, vessels, or effects of the other party shall be responsible in their persons and property for damages and interest, sufficient security for which shall be given by all commanders of private armed vessels before they are commissioned," and notwithstanding the further stipulation of Article 12 of the Treaty of 1785 that "The free intercourse and commerce of the subjects or citizens of the party remaining neutral with the belligerent powers shall not be interrupted." Disregarding these obligations, the German Government has proclaimed certain zones of the high seas in which it declared without reservation that all ships, including those of neutrals, will be sunk, and in those zones

German submarines have, in fact, in accordance with this declaration, ruthlessly sunk merchant vessels and jeopardized or destroyed the lives of American citizens on board.

Moreover, since the severance of relations between the United States and Germany, certain American citizens in Germany have been prevented from removing freely from the country. While this is not a violation of the terms of the treaties mentioned, it is a disregard of the reciprocal liberty of intercourse between the two countries in time of peace, and cannot be taken otherwise than as an indication of a purpose on the part of the German Government to disregard in the event of war the similar liberty of action provided for in Article 23 of the Treaty of 1799—the very article which it is now proposed to interpret and supplement almost wholly in the interest of the large number of German subjects residing in the United States and enjoying in their persons or property the protection of the United States Government. This article provides in effect that merchants of either country residing in the other shall be allowed a stated time in which to remain to settle their affairs and to “depart freely, carrying off all their effects without molestation or hindrance,” and women and children, artisans and certain others, may continue their respective employments and shall not be molested in their persons or property. It is now proposed by the Imperial German Government to enlarge the scope of this article so as to grant to German subjects and German property remaining in the United States in time of war the same treatment in many respects as that enjoyed by neutral subjects and neutral property in the United States.

In view of the clear violations by the German authorities of the plain terms of the treaties in question, solemnly concluded on the mutual understanding that the obligations thereunder would be faithfully kept; in view, further, of the disregard of the canons of international courtesy and the comity of nations in the treatment of innocent American citizens in Germany, the Government of the United States cannot perceive any advantage which would flow from further engagements, even though they were merely declaratory of international law, entered into with the Imperial German Government in regard to the meaning of any of the articles of these treaties, or as supplementary to them. In these circumstances, therefore, the Government of the United States declines to enter into the special protocol proposed by the Imperial Government.

I feel constrained, in view of the circumstances, to add that this Government is seriously considering whether or not the Treaty of

1828 and the revived articles of the treaties of 1785 and 1799 have not been in effect abrogated by the German Government's flagrant violations of their provisions, for it would be manifestly unjust and inequitable to require one party to an agreement to observe its stipulations and to permit the other party to disregard them. It would appear that the mutuality of the undertaking has been destroyed by the conduct of the German authorities.

Accept, etc.,

ROBERT LANSING.

Statement given to the press by the Department of State, February 12, 1917.

DEPARTMENT OF STATE,
February 12, 1917.

In view of the appearance in the newspapers of February 11 of a report that Germany was initiating negotiations with the United States in regard to submarine warfare, the Department of State makes the following statement:

A suggestion was made orally to the Department of State late Saturday afternoon by the minister of Switzerland that the German Government is willing to negotiate with the United States, provided that the commercial blockade against England would not be interfered with. At the request of the Secretary of State, this suggestion was made in writing and presented to him by the Swiss Minister Sunday night. The communication is as follows:

“MEMORANDUM.

“The Swiss Government has been requested by the German Government to say that the latter is, now as before, willing to negotiate, formally or informally, with the United States, provided that the commercial blockade against England will not be broken thereby.

“P. RITTER.”

This memorandum was given immediate consideration and the following reply was dispatched to-day:

“MY DEAR MR. MINISTER:

“I am requested by the President to say to you, in acknowledging the memorandum which you were kind enough to send me on the 11th instant, that the Government of the United States would gladly discuss with the German Government any questions it might propose for discussion were it to withdraw its proclamation of the 31st of January in which, suddenly and without previous intimation of any kind, it canceled the assurances which it had given this Government on the

4th of last May, but that it does not feel that it can enter into any discussion with the German Government concerning the policy of submarine warfare against neutrals which it is now pursuing unless and until the German Government renews its assurances of the 4th of May and acts upon the assurance.

"I am, my dear Mr. Minister, etc.,

"ROBERT LANSING."

"HIS EXCELLENCY DR. PAUL RITTER,
"Minister of Switzerland."

No other interchange on this subject had taken place between this Government and any other Government or person.

PART XXVI.

DECLARATION OF WAR AGAINST THE IMPERIAL GERMAN GOVERNMENT.

Circular Telegram from the Department of State to all Missions.

DEPARTMENT OF STATE,
Washington, April 2, 1917.

The President addressed the Special Session of Congress this evening in regard to the international situation. After briefly reviewing the submarine controversy with Germany, he pointed out that the present submarine warfare is a warfare against mankind; that in view of developments armed neutrality is worse than ineffectual and is only likely to produce what it was meant to prevent; that we cannot choose the path of submission and are arraying ourselves against wrongs which cut to the very roots of human life. With a profound sense of the solemn and even tragical character of the step he advised the Congress to declare the recent course of the German Government to be in effect nothing less than war against the Government and people of the United States and proposed that it take immediate steps to put the country in a thorough state of defense and employ all its power and resources to bring the German Empire to terms and end the war. This will involve utmost practicable coöperation in counsel and action with the Governments now at war with Germany; the extension of financial credits, material aid, and addition to armed forces of at least 500,000 men upon principle of universal military service. Legislative proposals along these lines will be promptly in-

troduced. We have no quarrel with the German people, but only with the autocratic government which has brought on the present situation. The world must be made safe for democracy, which seems to be in the balance. We have no selfish ends to serve. We desire no conquest, no dominion; we seek no indemnities for ourselves, no material compensation for the sacrifices we shall freely make. We are but one of the champions of the rights of mankind.

The following Joint Resolution was immediately introduced and referred to the Foreign Relations and Foreign Affairs Committees which meet to-morrow morning for its consideration:

“Joint Resolution declaring that a state of war exists between the Imperial German Government and the Government and people of the United States and making provision to prosecute the same.

“Whereas, the recent acts of the Imperial Government are acts of war against the Government and people of the United States:

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial Government which has thus been thrust upon the United States is hereby formally declared; and,

“That the President be, and he is hereby authorized and directed to take immediate steps not only to put the country in a thorough state of defense but also to exert all of its power and employ all of its resources to carry on war against the Imperial German Government and to bring the conflict to a successful termination.”

LANSING.

ADDRESS OF THE PRESIDENT OF THE UNITED STATES,
DELIVERED AT A JOINT SESSION OF THE TWO
HOUSES OF CONGRESS, APRIL 2, 1917.

GENTLEMEN OF THE CONGRESS:

I have called the Congress into extraordinary session because there are serious, very serious, choices of policy to be made, and made immediately, which it was neither right nor constitutionally permissible that I should assume the responsibility of making.

On the third of February last I officially laid before you the extraordinary announcement of the Imperial German Government that on and after the first day of February it was its purpose to

put aside all restraints of law or of humanity and use its submarines to sink every vessel that sought to approach either the ports of Great Britain and Ireland or the western coasts of Europe or any of the ports controlled by the enemies of Germany within the Mediterranean. That had seemed to be the object of the German submarine warfare earlier in the war, but since April of last year the Imperial Government had somewhat restrained the commanders of its undersea craft in conformity with its promise then given to us that passenger boats should not be sunk and that due warning would be given to all other vessels which its submarines might seek to destroy, when no resistance was offered or escape attempted, and care taken that their crews were given at least a fair chance to save their lives in their open boats. The precautions taken were meagre and haphazard enough, as was proved in distressing instance after instance in the progress of the cruel and unmanly business, but a certain degree of restraint was observed. The new policy has swept every restriction aside. Vessels of every kind, whatever their flag, their character, their cargo, their destination, their errand, have been ruthlessly sent to the bottom without warning and without thought of help or mercy for those on board, the vessels of friendly neutrals along with those of belligerents. Even hospital ships and ships carrying relief to the sorely bereaved and stricken people of Belgium, though the latter were provided with safe-conduct through the proscribed areas by the German Government itself and were distinguished by unmistakable marks of identity, have been sunk with the same reckless lack of compassion or of principle.

I was for a little while unable to believe that such things would in fact be done by any government that had hitherto subscribed to the humane practices of civilized nations. International law had its origin in the attempt to set up some law which would be respected and observed upon the seas, where no nation had right of dominion and where lay the free highways of the world. By painful stage after stage has that law been built up, with meagre enough results, indeed, after all was accomplished that could be accomplished, but always with a clear view, at least, of what the heart and conscience of mankind demanded. This minimum of right the German Government has swept aside under the plea of retaliation and necessity and because it had no weapons which it could use at sea except these which it is impossible to employ as it is employing them without throwing to the winds all scruples of humanity or of respect for the

understandings that were supposed to underlie the intercourse of the world. I am not now thinking of the loss of property involved, immense and serious as that is, but only of the wanton and wholesale destruction of the lives of noncombatants, men, women, and children, engaged in pursuits which have always, even in the darkest periods of modern history, been deemed innocent and legitimate. Property can be paid for; the lives of peaceful and innocent people cannot be. The present German submarine warfare against commerce is a warfare against mankind.

It is a war against all nations. American ships have been sunk, American lives taken, in ways which it has stirred us very deeply to learn of, but the ships and people of other neutral and friendly nations have been sunk and overwhelmed in the waters in the same way. There has been no discrimination. The challenge is to all mankind. Each nation must decide for itself how it will meet it. The choice we make for ourselves must be made with a moderation of counsel and a temperateness of judgment befitting our character and our motives as a nation. We must put excited feeling away. Our motive will not be revenge or the victorious assertion of the physical might of the nation, but only the vindication of right, of human right, of which we are only a single champion.

When I addressed the Congress on the twenty-sixth of February last I thought that it would suffice to assert our neutral rights with arms, our right to use the seas against unlawful interference, our right to keep our people safe against unlawful violence. But armed neutrality, it now appears, is impracticable. Because submarines are in effect outlaws when used as the German submarines have been used against merchant shipping, it is impossible to defend ships against their attacks as the law of nations has assumed that merchantmen would defend themselves against privateers or cruisers, visible craft giving chase upon the open sea. It is common prudence in such circumstances, grim necessity indeed, to endeavor to destroy them before they have shown their own intention. They must be dealt with upon sight, if dealt with at all. The German Government denies the right of neutrals to use arms at all within the areas of the sea which it has proscribed, even in the defense of rights which no modern publicist has ever before questioned their right to defend. The intimation is conveyed that the armed guards which we have placed on our merchant ships will be treated as beyond the pale of law and subject to be dealt with as pirates would be. Armed neu-

trality is ineffectual enough at best; in such circumstances and in the face of such pretensions it is worse than ineffectual: it is likely only to produce what it was meant to prevent; it is practically certain to draw us into the war without either the rights or the effectiveness of belligerents. There is one choice we cannot make, we are incapable of making: we will not choose the path of submission and suffer the most sacred rights of our nation and our people to be ignored or violated. The wrongs against which we now array ourselves are no common wrongs; they cut to the very roots of human life.

With a profound sense of the solemn and even tragical character of the step I am taking and of the grave responsibilities which it involves, but in unhesitating obedience to what I deem my constitutional duty, I advise that the Congress declare the recent course of the Imperial German Government to be in fact nothing less than war against the government and people of the United States; that it formally accept the status of belligerent which has thus been thrust upon it; and that it take immediate steps not only to put the country in a more thorough state of defense but also to exert all its power and employ all its resources to bring the Government of the German Empire to terms and end the war.

What this will involve is clear. It will involve the utmost practicable coöperation in counsel and action with the governments now at war with Germany, and, as incident to that, the extension to those governments of the most liberal financial credits, in order that our resources may so far as possible be added to theirs. It will involve the organization and mobilization of all the material resources of the country to supply the materials of war and serve the incidental needs of the nation in the most abundant and yet the most economical and efficient way possible. It will involve the immediate full equipment of the navy in all respects but particularly in supplying it with the best means of dealing with the enemy's submarines. It will involve the immediate addition to the armed forces of the United States already provided for by law in case of war at least five hundred thousand men, who should, in my opinion, be chosen upon the principle of universal liability to service, and also the authorization of subsequent additional increments of equal force so soon as they may be needed and can be handled in training. It will involve also, of course, the granting of adequate credits to the Government, sustained, I hope, so far as they can equitably be sustained by the present generation, by well conceived taxation.

I say sustained so far as may be equitable by taxation because it seems to me that it would be most unwise to base the credits which will now be necessary entirely on money borrowed. It is our duty, I most respectfully urge, to protect our people so far as we may against the very serious hardships and evils which would be likely to arise out of the inflation which would be produced by vast loans.

In carrying out the measures by which these things are to be accomplished we should keep constantly in mind the wisdom of interfering as little as possible in our own preparation and in the equipment of our own military forces with the duty—for it will be a very practical duty,—of supplying the nations already at war with Germany with the materials which they can obtain only from us or by our assistance. They are in the field and we should help them in every way to be effective there.

I shall take the liberty of suggesting, through the several executive departments of the Government, for the consideration of your committees, measures for the accomplishment of the several objects I have mentioned. I hope that it will be your pleasure to deal with them as having been framed after very careful thought by the branch of the Government upon which the responsibility of conducting the war and safeguarding the nation will most directly fall.

While we do these things, these deeply momentous things, let us be very clear, and make very clear to all the world what our motives and our objects are. My own thought has not been driven from its habitual and normal course by the unhappy events of the last two months, and I do not believe that the thought of the nation has been altered or clouded by them. I have exactly the same things in mind now that I had in mind when I addressed the Senate on the twenty-second of January last; the same that I had in mind when I addressed the Congress on the third of February and on the twenty-sixth of February. Our object now, as then, is to vindicate the principles of peace and justice in the life of the world as against selfish and autocratic power and to set up amongst the really free and self-governed peoples of the world such a concert of purpose and of action as will henceforth ensure the observance of those principles. Neutrality is no longer feasible or desirable where the peace of the world is involved and the freedom of its peoples, and the menace to that peace and freedom lies in the existence of autocratic governments backed by organized force which is controlled wholly by their will, not by the will of their people. We have seen

the last of neutrality in such circumstances. We are at the beginning of an age in which it will be insisted that the same standards of conduct and of responsibility for wrong done shall be observed among nations and their governments that are observed among the individual citizens of civilized states.

We have no quarrel with the German people. We have no feeling towards them but one of sympathy and friendship. It was not upon their impulse that their government acted in entering this war. It was not with their previous knowledge or approval. It was a war determined upon as wars used to be determined upon in the old, unhappy days when peoples were nowhere consulted by their rulers and wars were provoked and waged in the interest of dynasties or of little groups of ambitious men who were accustomed to use their fellow men as pawns and tools. Self-governed nations do not fill their neighbor states with spies or set the course of intrigue to bring about some critical posture of affairs which will give them an opportunity to strike and make conquest. Such designs can be successfully worked out only under cover and where no one has the right to ask questions. Cunningly contrived plans of deception or aggression, carried, it may be, from generation to generation, can be worked out and kept from the light only within the privacy of courts or behind the carefully guarded confidences of a narrow and privileged class. They are happily impossible where public opinion commands and insists upon full information concerning all the nation's affairs.

A steadfast concert for peace can never be maintained except by a partnership of democratic nations. No autocratic government could be trusted to keep faith within it or observe its covenants. It must be a league of honor, a partnership of opinion. Intrigue would eat its vitals away; the plottings of inner circles who could plan what they would and render account to no one would be a corruption seated at its very heart. Only free peoples can hold their purpose and their honor steady to a common end and prefer the interests of mankind to any narrow interest of their own.

Does not every American feel that assurance has been added to our hope for the future peace of the world by the wonderful and heartening things that have been happening within the last few weeks in Russia? Russia was known by those who knew it best to have been always in fact democratic at heart, in all the vital habits of her thought, in all the intimate relationships of her people that spoke their natural instinct, their habitual attitude towards life. The autoc-

raey that crowned the summit of her political structure, long as it had stood and terrible as was the reality of its power, was not in fact Russian in origin, character, or purpose; and now it has been shaken off and the great, generous Russian people have been added in all their naïve majesty and might to the forces that are fighting for freedom in the world, for justice, and for peace. Here is a fit partner for a League of Honor.

One of the things that has served to convince us that the Prussian autocracy was not and could never be our friend is that from the very outset of the present war it has filled our unsuspecting communities and even our offices of government with spies and set criminal intrigues everywhere afoot against our national unity of counsel, our peace within and without, our industries and our commerce. Indeed it is now evident that its spies were here even before the war began; and it is unhappily not a matter of conjecture but a fact proved in our courts of justice that the intrigues which have more than once come perilously near to disturbing the peace and dislocating the industries of the country have been carried on at the instigation, with the support, and even under the personal direction of official agents of the Imperial Government accredited to the Government of the United States. Even in checking these things and trying to extirpate them we have sought to put the most generous interpretation possible upon them because we knew that their source lay, not in any hostile feeling or purpose of the German people towards us (who were, no doubt as ignorant of them as we ourselves were), but only in the selfish designs of a Government that did what it pleased and told its people nothing. But they have played their part in serving to convince us at last that that Government entertains no real friendship for us and means to act against our peace and security at its convenience. That it means to stir up enemies against us at our very doors the intercepted note to the German Minister at Mexico City is eloquent evidence.

We are accepting this challenge of hostile purpose because we know that in such a government, following such methods, we can never have a friend; and that in the presence of its organized power, always lying in wait to accomplish we know not what purpose, there can be no assured security for the democratic governments of the world. We are now about to accept gauge of battle with this natural foe to liberty and shall, if necessary, spend the whole force of the nation to check and nullify its pretensions and

its power. We are glad, now that we see the facts with no veil of false pretence about them, to fight thus for the ultimate peace of the world and for the liberation of its peoples, the German peoples included: for the rights of nations great and small and the privilege of men everywhere to choose their way of life and of obedience. The world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty. We have no selfish ends to serve. We desire no conquest, no dominion. We seek no indemnities for ourselves, no material compensation for the sacrifices we shall freely make. We are but one of the champions of the rights of mankind. We shall be satisfied when those rights have been made as secure as the faith and the freedom of nations can make them.

Just because we fight without rancor and without selfish object, seeking nothing for ourselves but what we shall wish to share with all free peoples, we shall, I feel confident, conduct our operations as belligerents without passion and ourselves observe with proud punctilio the principles of right and of fair play we profess to be fighting for.

I have said nothing of the governments allied with the Imperial Government of Germany because they have not made war upon us or challenged us to defend our right and our honor. The Austro-Hungarian Government has, indeed, avowed its unqualified endorsement and acceptance of the reckless and lawless submarine warfare adopted now without disguise by the Imperial German Government, and it has therefore not been possible for this Government to receive Count Tarnowski, the Ambassador recently accredited to this Government by the Imperial and Royal Government of Austria-Hungary; but that Government has not actually engaged in warfare against citizens of the United States on the seas, and I take the liberty, for the present at least, of postponing a discussion of our relations with the authorities at Vienna. We enter this war only where we are clearly forced into it because there are no other means of defending our rights.

It will be all the easier for us to conduct ourselves as belligerents in a high spirit of right and fairness because we act without animus, not in enmity towards a people or with the desire to bring any injury or disadvantage upon them, but only in armed opposition to an irresponsible government which has thrown aside all considerations of humanity and of right and is running amuck. We are, let

me say again, the sincere friends of the German people, and shall desire nothing so much as the early re-establishment of intimate relations of mutual advantage between us,—however hard it may be for them, for the time being, to believe that this is spoken from our hearts. We have borne with their present government through all these bitter months because of that friendship,—exercising a patience and forbearance which would otherwise have been impossible. We shall, happily, still have an opportunity to prove that friendship in our daily attitude and actions towards the millions of men and women of German birth and native sympathy who live amongst us and share our life, and we shall be proud to prove it towards all who are in fact loyal to their neighbors and to the Government in the hour of test. They are, most of them, as true and loyal Americans as if they had never known any other fealty or allegiance. They will be prompt to stand with us in rebuking and restraining the few who may be of a different mind and purpose. If there should be disloyalty, it will be dealt with with a firm hand of stern repression; but, if it lifts its head at all, it will lift it only here and there and without countenance except from a lawless and malignant few.

It is a distressing and oppressive duty, Gentlemen of the Congress, which I have performed in thus addressing you. There are, it may be, many months of fiery trial and sacrifice ahead of us. It is a fearful thing to lead this great peaceful people into war, into the most terrible and disastrous of all wars, civilization itself seeming to be in the balance. But the right is more precious than peace, and we shall fight for the things which we have always carried nearest our hearts,—for democracy, for the right of those who submit to authority to have a voice in their own governments, for the rights and liberties of small nations, for a universal dominion of right by such a concert of free peoples as shall bring peace and safety to all nations and make the world itself at last free. To such a task we can dedicate our lives and our fortunes, everything that we are and everything that we have, with the pride of those who know that the day has come when America is privileged to spend her blood and her might for the principles that gave her birth and happiness and the peace which she has treasured. God helping her, she can do no other.

WAR WITH THE IMPERIAL GERMAN GOVERNMENT.

Mr. Flood, from the Committee on Foreign Affairs, submitted the following:

REPORT.

[To accompany H. J. Res. 24.]

The Committee on Foreign Affairs, to which was referred the joint resolution (H. J. Res. 24) declaring that a state of war exists between the Imperial German Government and the Government and people of the United States, and making provision to prosecute the same, having had the same under consideration, reports it back with amendment, and recommends that the resolution, as amended, do pass.

Page 1, strike out all after the title, and insert in lieu thereof the following:

Whereas the Imperial German Government has committed repeated acts of war against the Government and people of the United States of America:
Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial German Government which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of this Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.

It is with the deepest sense of responsibility of the momentous results which will follow the passage of this resolution that your committee reports it to the House, with the recommendation that it be passed.

The conduct of the Imperial German Government toward this Government, its citizens, and its interests has been so discourteous, unjust, cruel, barbarous, and so lacking in honesty and fair dealing that it has constituted a violation of the course of conduct which should obtain between friendly nations.

In addition to this, the German Government is actually making war upon the people and the commerce of this country, and leaves no course open to this Government but to accept its gauge of battle, declare that a state of war exists, and wage that war vigorously.

On the 31st day of January, 1917, notice was given by the Imperial German Government to this Government that after the following day—

Germany will meet the illegal measures of her enemies by forcibly preventing, in a zone around Great Britain, France, Italy, and in the eastern Mediterranean, all navigation, that of neutrals included, from and to England and from and to France, etc. All ships met within that zone will be sunk.

Since that day seven American ships flying the American flag have been sunk and between 25 and 30 American lives have been lost as a result of the prosecution of the submarine warfare in accordance with the above declaration. This is war. War waged by the Imperial German Government upon this country and its people.

A brief review of some of the hostile and illegal acts of the German Government toward this Government and its officers and its people is herewith given.

GERMANY'S CONDUCT OF SUBMARINE WARFARE.

In the memorial of the Imperial German Government accompanying its proclamation of February 4, 1915, in regard to submarine warfare, that Government declared—

. . . the German Navy has received instructions to abstain from all violence against neutral vessels recognizable as such.

In the note of the German Government dated February 16, 1915, in reply to the American note of February 10, it was declared that—

It is very far indeed from the intention of the German Government . . . ever to destroy neutral lives and neutral property. . . . The commanders of German submarines have been instructed, as was already stated in the note of the 4th instant, to abstain from violence to American merchant ships when they are recognizable as such.

Nevertheless the German Government proceeded to carry out its plans of submarine warfare and torpedoed the British passenger steamer *Falaba* on March 27, 1915, when one American life was lost, attacked the American steamer *Cushing* April 28 by airship, and made submarine attacks upon the American tank steamer *Gulflight* May 1, the British passenger liner *Lusitania* May 7 when 114 American lives were lost, and the American steamer *Nebraskan* on May 25, in all of which over 125 citizens of the United States lost their lives, not to mention hundreds of noncombatants who were lost and hundreds of Americans and noncombatants whose lives were put in jeopardy.

The British mule boat *Armenian* was torpedoed on June 28, as a result of which 20 Americans are reported missing.

On July 8, 1915, in a note to Ambassador Gerard, arguing in defense of its method of warfare and particularly of its submarine commander in the *Lusitania* case, it is stated:

The Imperial Government therefore repeats the assurances that American ships will not be hindered in the prosecution of legitimate shipping and the lives of American citizens on neutral vessels shall not be placed in jeopardy.

In order to exclude any unforeseen dangers to American passenger steamers, the German submarines will be instructed to permit the free and safe passage of such passenger steamers when made recognizable by special markings and notified a reasonable time in advance.

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Subsequently the following vessels carrying American citizens were attacked by submarines:

British liner *Orduna* July 9.

Russian steamer *Leo* July 9.

American steamer *Leelanaw* July 25.

British passenger liner *Arabic* August 19.

British mule ship *Nicosian* August 19.

British steamer *Hesperian* September 4.

In these attacks 23 Americans lost their lives, not to mention the large number whose lives were placed in jeopardy.

Following these events, conspicuous by their wantonness and violation of every rule of humanity and maritime warfare, the German ambassador, by instructions from his Government, on September 1 gave the following assurances to the Government of the United States:

Liners will not be sunk by our submarines without warning and without safety of the lives of noncombatants, provided that the liners do not try to escape or offer resistance.

On September 9, in a reply as to the submarine attack on the *Orduna*, the German Government renewed these assurances in the following language:

The first attack on the *Orduna* by a torpedo was not in accordance with the existing instructions, which provide that large passenger steamers are to be torpedoed only after previous warning and after the rescuing of passengers and crew. The failure to observe the instructions was based on an error which is at any rate comprehensible and the repetition of which appears to be out of the question, in view of the more explicit instructions issued in the meantime. Moreover, the commanders of the submarines have been reminded that it is their duty to exercise greater care and to observe carefully the orders issued.

The German Government could not more clearly have stated that liners or large passenger steamers would not be torpedoed except upon previous warning, and after the passengers and crew had been put in places of safety.

On November 29, the German Government states, in connection with the case of the American vessel *William P. Frye*:

the German naval forces will sink only such American vessels as are loaded with absolute contraband, when the preconditions provided by the declaration of London are present. In this the German Government quite shares the view of the American Government that all possible care must be taken for the security of the crew and passengers of a vessel to be sunk. Consequently the persons found on board of a vessel may not be ordered into her lifeboats except when the general conditions—that is to say, the weather, the condition of the sea, and the neighborhood of the coasts—afford absolute certainty that the boats will reach the nearest port.

Following this accumulative series of assurances, however, there seems to have been no abatement in the rigor of submarine warfare, for attacks were made in the Mediterranean upon the American steamer *Communiaw* on December 3, the American steamer *Petro-lite* December 5, the Japanese liner *Yasaka Maru* December 21, and the passenger liner *Persia* December 30. In the sinking of the *Persia* out of a total of some 500 passengers and crew only 165 were saved. Among those lost was an American consul traveling to his post.

On January 7, eight days after the sinking of the *Persia*, the German Government notified the Government of the United States through its ambassador in Washington as follows:

1. German submarines in the Mediterranean had, from the beginning, orders to conduct cruiser warfare against enemy merchant vessels only in accordance with the general principles of international law, and in particular measures of reprisal, as applied in the war zone around the British Isles, were to be excluded.

2. German submarines are therefore permitted to destroy enemy merchant vessels in the Mediterranean—i.e., passenger as well as freight ships as far as they do not try to escape or offer resistance—only after passengers and crews have been accorded safety.

Clearly the assurances of the German Government that neutral and enemy merchant vessels, passenger as well as freight ships, should not be destroyed except upon the passengers and crew being accorded safety stood as the official position of the Imperial German Government.

On February 16, 1916, the German ambassador communicated to the Department of State an expression of regret for the loss of American lives on the *Lusitania* and proposed to pay a suitable indemnity. In the course of this note he said:

Germany has . . . limited her submarine warfare because of her long-standing friendship with the United States and because by the sinking of the *Lusitania*, which caused the death of citizens of the United States, the German retaliation affected neutrals which was not the intention, as retaliation should be confined to enemy subjects.

On March 1, 1916, the unarmed French passenger steamer *Patria*, carrying a number of American citizens, was attacked without warning. On March 9 the Norwegian bark *Silius*, riding at anchor in Havre Rhodes, was torpedoed by an unseen submarine and one of the seven Americans on board was injured. On March 16 the Dutch passenger steamer *Tubantia* was sunk in the North Sea by a torpedo. On March 16 the British steamer *Berwindvale* was torpedoed without warning off Bantry Island with four Americans on board. On March 24 the British unarmed steamer *Englishman* was, after a chase, torpedoed and sunk by the submarine *U 19*, as a result of which one American on board perished. On March 24 the unarmed French cross-channel steamer *Sussex* was torpedoed without warning, several

of the 24 American passengers being injured. On March 27 the unarmed British liner *Manchester Engineer* was sunk by an explosion without prior warning, with Americans on board, and on March 28 the British steamer *Eagle Point*, carrying a Hotchkiss gun, which she did not use, was chased, overtaken, and sunk by a torpedo after the persons on board had taken to the boats.

The American note of February 10, 1915, stated that should German vessels of war—

destroy on the high seas an American vessel or the lives of American citizens it would be difficult for the Government of the United States to view the act in any other light than an indefensible violation of neutral rights which it would be very hard indeed to reconcile with the friendly relations so happily subsisting between the two Governments—

and that if such a deplorable situation should arise—

the Government of the United States would be constrained to hold the Imperial Government to a strict accountability for such acts of their naval authorities.

In the American note of May 13, 1915, the Government stated:

The Imperial Government will not expect the Government of the United States to omit any word or act necessary to the performances of its sacred duty of maintaining the rights of the United States and its citizens and in safeguarding their free exercise and enjoyment.

In the note of July 21, 1915, the United States Government said that—

Repetition by the commanders of German naval vessels and acts in contravention of those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly.

In a communication of April 18, 1916, the American Government said:

If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight carrying vessels the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether.

The German Government replied to this communication on May 4, 1916, giving definite assurances that new orders had been issued to the German naval forces "in accordance with the general principles of visit and search and the destruction of merchant vessels recog-

nized by international law." And this agreement was substantially complied with for many months, but finally, on January 31, 1917, notice was given that after the following day—

Germany will meet the illegal measures of her enemies by forcibly preventing in a zone around Great Britain, France, Italy, and in the eastern Mediterranean, all navigation, that of neutrals included, from and to England and from and to France, etc. All ships met within that zone will be sunk.

In view of this Government's warning of April 18, 1916, and the Imperial German Government's pledge of May 4 of the same year, the Government of the United States, on February 3, 1917, stated to the Imperial German Government that—

In view of this declaration, which withdraws suddenly and without prior intimation the solemn assurance given in the Imperial Government's note of May 4, 1916, this Government has no alternative consistent with the dignity and honor of the United States but to take the course which it explicitly announced in its note of April 18, 1916, it would take in the event that the Imperial Government did not declare and effect an abandonment of the methods of submarine warfare then employed and to which the Imperial Government now purposed again to resort.

The President has, therefore, directed me to announce to your excellency that all diplomatic relations between the United States and the German Empire are severed, and that the American ambassador at Berlin will be immediately withdrawn, and, in accordance with such announcement, to deliver to your excellency your passports.

On February 3 one American ship was sunk, and since that date six American ships flying the American flag have been torpedoed, with a loss of about 13 American citizens. In addition, 50 or more foreign vessels of both belligerent and neutral nationality with Americans on board have been torpedoed, in most cases without warning, with a consequent loss of several American citizens.

IMPROPER ACTIVITIES OF GERMAN OFFICIALS IN THE UNITED STATES.

Since the beginning of the war German officials in the United States have engaged in many improper activities in violation of the laws of the United States and of their obligations as officials in a neutral country. Count von Bernstorff, the German ambassador, Capt. von Papen, military attaché of the embassy, Capt. Boy-Ed, naval attaché, as well as various consular officers and other officials, were involved in these activities, which were very widespread.

The following instances are chosen at random from the cases which have come to the knowledge of the Government.

I. By direct instructions received from the foreign office in Berlin the German Embassy in this country furnished funds and issued orders to the Indian independence committee of the Indian Nation—

alist Party in the United States. These instructions were usually conveyed to the committee by the military information bureau in New York (Von Igel) or by the German consulates in New York and San Francisco.

Dr. Chakrabarty, recently arrested in New York City, received, all in all, according to his own admission, some \$60,000 from Von Igel. He claims that the greater portion of this money was used for defraying the expenses of the Indian revolutionary propaganda in this country, and, as he says, for educational purposes. While this is in itself true, it is not all that was done by the revolutionists. They have sent representatives to the Far East to stir up trouble in India and they have attempted to ship arms and ammunition to India. These expeditions have failed. The German Embassy also employed Ernest T. Euphrat to carry instructions and information between Berlin and Washington under an American passport.

II. Officers of interned German warships have violated their word of honor and escaped. In one instance the German consul at Richmond furnished the money to purchase a boat to enable six warrant officers of the steamer *Kronprinz Wilhelm* to escape after breaking their parole.

III. Under the supervision of Capt. von Papen and Wolf von Igel, Hans von Wedell and, subsequently, Carl Ruroede maintained a regular office for the procurement of fraudulent passports for German reservists. These operations were directed and financed in part by Capt. von Papen and Wolf von Igel. Indictments were returned, Carl Ruroede sentenced to the penitentiary, and a number of German officers fined. Von Wedell escaped and has apparently been drowned at sea. Von Wedell's operations were also known to high officials in Germany. When Von Wedell became suspicious that forgeries committed by him on a passport application had become known, he conferred with Capt. von Papen and obtained money from him wherewith to make his escape.

IV. James J. F. Archibald, under cover of an American passport and in the pay of the German Government through Ambassador Bernstorff, carried dispatches for Ambassador Dumba and otherwise engaged in unneutral activities.

V. Albert Sanders, Charles Wunnonberg, and others, German agents in this country, were engaged, among other activities, in sending spies to England equipped with American passports, for the purpose of securing military information. Several such men have been sent. Sanders and Wunnonberg have plead guilty to indictments brought against them in New York City as has George Voux Bacon, one of the men sent abroad by them.

VI. American passports have been counterfeited and counterfeits found on German agents. Baron von Cupenberg, a German agent, when arrested abroad, bore a counterfeit of an American passport issued to Gustav C. Roeder; Irving Guy Ries received an American passport, went to Germany, where the police retained his passports for 24 hours. Later a German spy named Carl Paul Julius Hensel

was arrested in London with a counterfeit of the Ries passport in his possession.

VII. Prominent officials of the Hamburg-American Line, who under the direction of Capt. Boy-Ed, endeavored to provide German warships at sea with coal and other supplies in violation of the statutes of the United States, have been tried and convicted and sentenced to the penitentiary. Some 12 or more vessels were involved in this plan.

VIII. Under the direction of Capt. Boy-Ed and the German consulate at San Francisco, and in violation of our law, the steamships *Sacramento* and *Mazatlan* carried supplies from San Francisco to German war vessels. The *Olsen and Mahoney*, which was engaged in a similar enterprise, was detained. The money for these ventures was furnished by Capt. Boy-Ed. Indictments have been returned in connection with these matters against a large number of persons.

IX. Werner Horn, a lieutenant in the German Reserve, was furnished funds by Capt. Franz von Papen and sent, with dynamite, under orders to blow up the International Bridge at Vanceboro, Me. He was partially successful. He is now under indictment for the unlawful transportation of dynamite on passenger trains and is in jail awaiting trial following the dismissal of his appeal by the Supreme Court.

X. Capt. von Papen furnished funds to Albert Kaltschmidt, of Detroit, who is involved in a plot to blow up a factory at Walkerville, Canada, and the armory at Windsor, Canada.

XI. Robert Fay, Walter Scholtz, and Paul Daeche have been convicted and sentenced to the penitentiary and three others are under indictment for conspiracy to prepare bombs and attach them to allied ships leaving New York Harbor. Fay, who was the principal in this scheme, was a German soldier. He testified that he received finances from a German secret agent in Brussels, and told von Papen of his plans, who advised him that his device was not practicable, but that he should go ahead with it, and if he could make it work he would consider it.

XII. Under the direction of Capt. von Papen and Wolf von Igel, Dr. Walter T. Scheele, Capt. von Kleist, Capt. Wolpert, of the Atlas Steamship Co., and Capt. Rode, of the Hamburg-American Line, manufactured incendiary bombs and placed them on board allied vessels. The shells in which the chemicals were placed were made on board the steamship *Friederich der Grosse*. Scheele was furnished \$1,000 by von Igel wherewith to become a fugitive from justice.

XIII. Capt. Franz Rintelen, a reserve officer in the German Navy, came to this country secretly for the purpose of preventing the exportation of munitions of war to the allies and of getting to Germany needed supplies. He organized and financed Labor's National Peace Council in an effort to bring about an embargo on the shipment of munitions of war, tried to bring about strikes, etc.

XIV. Consul General Bopp, at San Francisco, Vice Consul Gen-

eral Von Schaick, Baron George Wilhelm von Brincken (an employee of the consulate), Charles C. Crowley, and Mrs. Margaret W. Cornell (secret agents of the German consulate at San Francisco) have been convicted of conspiracy to send agents into Canada to blow up railroad tunnels and bridges, and to wreck vessels sailing from Pacific coast ports with war material for Russia and Japan.

XV. Paul Koenig, head of the secret-service work of the Hamburg-American Line, by direction of his superior officers, largely augmented his organization and under the direction of von Papen, Boy-Ed, and Albert carried on secret work for the German Government. He secured and sent spies to Canada to gather information concerning the Welland Canal, the movements of Canadian troops to England, bribed an employee of a bank for information concerning shipments to the allies, sent spies to Europe on American passports to secure military information, and was involved with Capt. von Papen in plans to place bombs on ships of the allies leaving New York Harbor, etc. Von Papen, Boy-Ed, and Albert had frequent conferences with Koenig in his office, at theirs, and at outside places. Koenig and certain of his associates are under indictment.

XVI. Capt. von Papen, Capt. Hans Tauscher, Wolf von Igel, and a number of German reservists organized an expedition to go into Canada, destroy the Welland Canal, and endeavor to terrorize Canadians in order to delay the sending of troops from Canada to Europe. Indictments have been returned against these persons. Wolf von Igel furnished Fritzen, one of the conspirators in this case, money on which to flee from New York City. Fritzen is now in jail in New York City.

XVII. With money furnished by official German representatives in this country, a cargo of arms and ammunition was purchased and shipped on board the schooner *Annie Larsen*. Through the activities of German official representatives in this country and other Germans a number of Indians were procured to form an expedition to go on the steamship *Maverick*, meet the *Annie Larsen*, take over her cargo, and endeavor to bring about a revolution in India. This plan involved the sending of a German officer to drill Indian recruits and the entire plan was managed and directed by Capt. von Papen, Capt. Hans Tauscher, and other official German representatives in this country.

XVIII. Gustav Stahl, a German reservist, made an affidavit which he admitted was false, regarding the armament of the *Lusitania*, which affidavit was forwarded to the State Department by Ambassador Bernstorff. He plead guilty to an indictment charging perjury, and was sentenced to the penitentiary. Koenig, herein mentioned, was active in securing this affidavit.

XIX. The German embassy organized, directed, and financed the Hans Libeau Employment Agency, through which extended efforts were made to induce employees of manufacturers engaged in supplying various kinds of material to the allies to give up their positions in an effort to interfere with the output of such manufacturers. Von

Papen indorsed this organization as a military measure, and it was hoped through its propaganda to cripple munition factories.

XX. The German Government has assisted financially a number of newspapers in this country in return for pro-German propaganda.

XXI. Many facts have been secured indicating that Germans have aided and encouraged financially and otherwise the activities of one or the other factions in Mexico, the purpose being to keep the United States occupied along its borders and to prevent the exportation of munitions of war to the allies; see, in this connection, the activities of Rintelen, Stallforth, Kopf, the German consul at Chihuahua, Krum-Hellen, Felix Somerfeld (Villa's representative at New York), Carl Heynen, Gustav Steinberg, and many others.

ATTACKS ON SHIPS OF THE COMMISSION FOR RELIEF IN BELGIUM IN VIOLATION OF GERMAN UNDERTAKINGS.

When the Commission for Relief in Belgium began its work in October, 1914, it received from the German authorities, through the various Governments concerned, definite written assurances that ships engaged in carrying cargoes for the relief of the civil population of Belgium and northern France should be immune from attack. In order that there may be no room for attacks upon these ships through misunderstanding, each ship is given a safe-conduct by the German diplomatic representative in the country from which it sails, and, in addition, bears conspicuously upon its sides markings which have been agreed upon with the German authorities; furthermore, similar markings are painted upon the decks of the ships in order that they may be readily recognizable by aeroplanes.

Upon the rupture of relations with Germany the commission was definitely assured by the German Government that its ships would be immune from attack by following certain prescribed courses and conforming to the arrangements previously made.

Despite these solemn assurances there have been several unwarranted attacks upon ships under charter to the commission.

On March 7 or 8 the Norwegian ship *Storstad*, carrying 10,000 tons of corn from Buenos Aires to Rotterdam for the commission was sunk in broad daylight by a German submarine despite the conspicuous markings of the commission which the submarine could not help observing. The *Storstad* was repeatedly shelled without warning and finally torpedoed.

On March 19 the steamships *Tunisie* and *Haelen*, under charter to the commission proceeded to the United States under safe-conducts and guaranties from the German minister at The Hague and bearing conspicuous markings of the commission, were attacked without warning by a German submarine outside the danger zone (56° 15' north, 5° 32' east). The ships were not sunk, but on the *Haelen* seven men were killed, including the first and third officers; a port boat was sunk; a hole was made in the port bunker above the

water line; and the ships sustained sundry damages to decks and engines.

INDIGNITIES TO AMERICAN OFFICIALS.

Various consular officers have suffered indignities and humiliation at the hands of German frontier authorities. The following are illustrations:

Mr. Pike, consul at St. Gall, Switzerland, on proceeding to his post with a passport duly indorsed by German officials in New York and Copenhagen, was on November 26, 1916, subjected to great indignities at Warnemunde on the German frontier. Mr. Pike refused to submit to search of his person, the removal of his clothing, or the seizure of his official reports and papers of a private and confidential nature. He was therefore obliged to return to Copenhagen.

Mr. Murphy, the consul general at Sofia, and his wife, provided with passports from the German legations at The Hague and Copenhagen, were on two occasions stripped and searched and subjected to great humiliation at the same frontier station. No consideration was given them because of their official position.

Such has been the behavior on the part of German officials notwithstanding that consular officials hold positions of dignity and responsibility under their Government and that during the present war Germany has been placed under deep obligation to American consular officers by their efforts in the protection of German interests.

INHUMAN TREATMENT ACCORDED YARROWDALE PRISONERS BY GERMAN AUTHORITIES.

On January 19 Mr. Gerard telegraphed that the evening papers contained a report that the English steamer *Yarrowdale* had been brought to Swinemunde as prize with 469 prisoners on board taken from ships captured by German auxiliary cruisers; that among these prisoners were 103 neutrals; and that such of these as had been taken on board enemy ships and had accepted pay on such ships would be held as prisoners of war.

After repeated inquiries Mr. Gerard learned that there were among the *Yarrowdale* prisoners 72 men claiming American citizenship.

On February 4, Mr. Gerard was informed by Count Montgeles of the foreign office that the Americans taken on the *Yarrowdale* would be released immediately on the ground that they could not have known at the time of sailing that it was Germany's intention to treat armed merchantmen as ships of war.

Despite this assurance the prisoners were not released, but some time prior to February 17, the German minister for foreign affairs told the Spanish ambassador that the American prisoners from the *Yarrowdale* would be liberated "in a very short time."

Upon receipt of this information a formal demand was made through the Spanish ambassador at Berlin for the immediate release of these men. The message sent the Spanish ambassador was as follows:

If *Yarrowdale* prisoners have not been released, please make formal demand in the name of the United States for their immediate release. If they are not promptly released and allowed to cross the frontier without further delay, please state to the foreign minister that this policy of the Imperial Government, if continued, apparently without the slightest justification, will oblige the Government of the United States to consider what measures it may be necessary to take in order to obtain satisfaction for the continued detention of these innocent American citizens.

On February 25 the American ambassador at Madrid was informed by the Spanish foreign office that the *Yarrowdale* prisoners had been released on the 16th instant.

The foregoing statement appears to have been based on erroneous information, for no further report on the subject has been received.

The men finally reached Zurich, Switzerland, on the afternoon of March 11.

Official reports now in the possession of the Department of State indicate that these American sailors were from the moment of their arrival in Germany, on January 3, subjected to the most cruel and heartless treatment. Although the weather was very cold they were given no suitable clothes, and many of them stood about for hours barefoot in the snow. The food supplied them was utterly inadequate. After one cup of coffee in the morning almost the only article of food given them was boiled frosted cabbage, with mush once a week and beans once a week. One member of the crew states that he was severely kicked in the abdomen by a German officer without provocation. He appears still to be suffering severely from this assault. Another sailor is still suffering from a wound caused by shrapnel fired by the Germans at an open boat in which he and his companions had taken refuge after the sinking of the *Georgic*.

All of the men stated that their treatment had been so inhuman that should a submarine be sighted in the course of their voyage home they would prefer to be drowned rather than have any further experience in German prison camps.

It is significant that the inhuman treatment accorded these American sailors occurred a month before the break in relations and while Germany was on every occasion professing the most cordial friendship for the United States.

INTERFERENCE WITH THE COMMUNICATIONS OF THE EMBASSY AT BERLIN.

After the suspension of diplomatic relations, the German authorities cut off the telephone at the embassy at Berlin and suppressed Mr. Gerard's communication by telegraph and post. Mr. Gerard was not even permitted to send to American consular officers in Germany the instructions he had received for them from the Department of State. Neither was he allowed to receive his mail. Just before he left Berlin the telephonic communication at the embassy

was restored and some telegrams and letters were delivered. No apologies were offered, however.

GERMAN INTRIGUES TO INVOLVE THE UNITED STATES IN WAR WITH
MEXICO AND JAPAN.

The Government of the United States is in possession of instructions addressed by the German minister for foreign affairs to the German minister to Mexico concerning a proposed alliance of Germany, Japan, and Mexico to make war on the United States. The text of this document is as follows:

BERLIN, *January 19, 1917.*

On the first of February we intend to begin submarine warfare unrestricted. In spite of this it is our intention to endeavor to keep neutral the United States of America.

If this attempt is not successful we propose an alliance on the following basis with Mexico: That we shall make war together and together make peace. We shall give general financial support, and it is understood that Mexico is to reconquer the lost territory in New Mexico, Texas, and Arizona. The details are left to you for settlement.

You are instructed to inform the President of Mexico of the above in the greatest confidence as soon as it is certain there will be an outbreak of war with the United States, and suggest that the President of Mexico on his own initiative should communicate with Japan suggesting adherence at once to this plan; at the same time offer to mediate between Germany and Japan.

Please call to the attention of the President of Mexico that the employment of ruthless submarine warfare now promises to compel England to make peace in a few months.

(Signed) ZIMMERMANN.

[PUBLIC RESOLUTION—No. 1—65TH CONGRESS.]

[S. J. Res. 1.]

SIXTY-FIFTH CONGRESS OF THE UNITED STATES OF
AMERICA;

At the First Session.

Joint Resolution, Declaring that a state of war exists between the Imperial German Government and the Government and the people of the United States and making provision to prosecute the same.

Whereas the Imperial German Government has committed repeated acts of war against the Government and the people of the United States of America: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war

between the United States and the Imperial German Government which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.

CHAMP CLARK,

Speaker of the House of Representatives.

THOS. R. MARSHALL,

Vice President of the United States and

President of the Senate.

Approved, April 6, 1917,
WOODROW WILSON.

[EXISTENCE OF WAR—GERMAN EMPIRE.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Congress of the United States in the exercise of the constitutional authority vested in them have resolved, by joint resolution of the Senate and House of Representatives bearing date this day "That the state of war between the United States and the Imperial German Government which has been thrust upon the United States is hereby formally declared";

WHEREAS it is provided by Section four thousand and sixty-seven of the Revised Statutes, as follows:

Whenever there is declared a war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States, by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed, as alien enemies. The President is authorized, in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those

who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety;

WHEREAS, by Sections four thousand and sixty-eight, four thousand and sixty-nine, and four thousand and seventy, of the Revised Statutes, further provision is made relative to alien enemies;

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America, do hereby proclaim to all whom it may concern that a state of war exists between the United States and the Imperial German Government; and I do specially direct all officers, civil or military, of the United States that they exercise vigilance and zeal in the discharge of the duties incident to such a state of war; and I do, moreover, earnestly appeal to all American citizens that they, in loyal devotion to their country, dedicated from its foundation to the principles of liberty and justice, uphold the laws of the land, and give undivided and willing support to those measures which may be adopted by the constitutional authorities in prosecuting the war to a successful issue and in obtaining a secure and just peace;

And, acting under and by virtue of the authority vested in me by the Constitution of the United States and the said sections of the Revised Statutes, I do hereby further proclaim and direct that the conduct to be observed on the part of the United States towards all natives, citizens, denizens, or subjects of Germany, being males of the age of fourteen years and upwards, who shall be within the United States and not actually naturalized, who for the purpose of this proclamation and under such sections of the Revised Statutes are termed alien enemies, shall be as follows:

All alien enemies are enjoined to preserve the peace towards the United States and to refrain from crime against the public safety, and from violating the laws of the United States and of the States and Territories thereof, and to refrain from actual hostility or giving information, aid or comfort to the enemies of the United States, and to comply strictly with the regulations which are hereby or which may be from time to time promulgated by the President; and so long as they shall conduct themselves in accordance with law, they shall be undisturbed in the peaceful pursuit of their lives and occupations and be accorded the consideration due to all peaceful and law-abiding persons, except so far as restrictions may be necessary for their own protection and for the safety of the United States; and towards such alien enemies as conduct themselves in accordance with law, all citizens of the United States are enjoined to preserve the

peace and to treat them with all such friendliness as may be compatible with loyalty and allegiance to the United States;

And all alien enemies who fail to conduct themselves as so enjoined, in addition to all other penalties prescribed by law, shall be liable to restraint, or to give security, or to remove and depart from the United States in the manner prescribed by Sections four thousand and sixty-nine and four thousand and seventy of the Revised Statutes, and as prescribed in the regulations duly promulgated by the President;

And pursuant to the authority vested in me, I hereby declare and establish the following regulations, which I find necessary in the premises and for the public safety:

- (1) An alien enemy shall not have in his possession, at any time or place, any fire-arm, weapon or implement of war, or component part thereof, ammunition, maxim or other silencer, bomb or explosive or material used in the manufacture of explosives;
- (2) An alien enemy shall not have in his possession at any time or place, or use or operate any aircraft or wireless apparatus, or any form of signalling device, or any form of cipher code, or any paper, document or book written or printed in cipher or in which there may be invisible writing;
- (3) All property found in the possession of an alien enemy in violation of the foregoing regulations shall be subject to seizure by the United States;
- (4) An alien enemy shall not approach or be found within one-half of a mile of any Federal or State fort, camp, arsenal, aircraft station, Government or naval vessel, navy yard, factory, or workshop for the manufacture of munitions of war or of any products for the use of the army or navy;
- (5) An alien enemy shall not write, print, or publish any attack or threats against the Government or Congress of the United States, or either branch thereof, or against the measures or policy of the United States, or against the person or property of any person in the military, naval, or civil service of the United States, or of the States or Territories, or of the District of Columbia, or of the municipal governments therein;
- (6) An alien enemy shall not commit or abet any hostile act against the United States, or give information, aid, or comfort to its enemies;
- (7) An alien enemy shall not reside in or continue to reside in, to remain in, or enter any locality which the President may from time to time designate by Executive Order as a prohibited area in which residence by an alien enemy shall be found by him to constitute a danger to the public peace and

safety of the United States, except by permit from the President and except under such limitations or restrictions as the President may prescribe;

- (8) An alien enemy whom the President shall have reasonable cause to believe to be aiding or about to aid the enemy, or to be at large to the danger of the public peace or safety of the United States, or to have violated or to be about to violate any of these regulations, shall remove to any location designated by the President by Executive Order, and shall not remove therefrom without a permit, or shall depart from the United States if so required by the President;
- (9) No alien enemy shall depart from the United States until he shall have received such permit as the President shall prescribe, or except under order of a court, judge, or justice, under Sections 4069 and 4070 of the Revised Statutes;
- (10) No alien enemy shall land in or enter the United States, except under such restrictions and at such places as the President may prescribe;
- (11) If necessary to prevent violations of these regulations, all alien enemies will be obliged to register;
- (12) An alien enemy whom there may be reasonable cause to believe to be aiding or about to aid the enemy, or who may be at large to the danger of the public peace or safety, or who violates or attempts to violate, or of whom there is reasonable ground to believe that he is about to violate, any regulation duly promulgated by the President, or any criminal law of the United States, or of the States or Territories thereof, will be subject to summary arrest by the United States Marshal, or his deputy, or such other officer as the President shall designate, and to confinement in such penitentiary, prison, jail, military camp, or other place of detention as may be directed by the President.

This proclamation and the regulations herein contained shall extend and apply to all land and water, continental or insular, in any way within the jurisdiction of the United States.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this sixth day of April,
in the year of our Lord one thousand nine hundred
[SEAL.] and seventeen, and of the independence of the United
States the one hundred and forty-first.

WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.

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